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March 2016

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# Executive Orders

## EXECUTIVE ORDER JBE 16-03

### Executive Branch—Expenditure and Hiring Freeze

WHEREAS, pursuant to the provisions of Article IV, Section 5 of the Louisiana Constitution of 1974, as amended, and Act 16 of the 2015 Regular Session of the Louisiana Legislature, the Governor may issue executive orders which limit the expenditure of funds by the various agencies in the executive branch of state government (hereafter "expenditure freeze"); and

WHEREAS, pursuant to La. R.S. 42:375, the Governor may issue executive orders which prohibit or regulate the filling of any new or existing vacancies in positions of employment in the executive branch of state government (hereafter "hiring freeze");

WHEREAS, La. R.S. 39:84 provides authority to the Governor to regulate and control personnel transactions;

WHEREAS, to reduce the budget deficit declared by the Joint Legislative Committee on the Budget on February 13, 2016, prudent money management practices dictate that the best interests of the citizens of the State of Louisiana will be served by implementing an expenditure and hiring freeze throughout the executive branch of state government; and

WHEREAS, this hiring freeze is expected to generate at least \$2,500,000 in savings for the last quarter of FY 2016.

NOW THEREFORE, I, JOHN BEL EDWARDS, Governor of the State of Louisiana, by virtue of the authority vested by the Constitution and laws of the State of Louisiana, do hereby order and direct as follows:

SECTION 1: All departments, agencies, and/or budget units of the executive branch of the State of Louisiana as described in and/or funded by appropriations through Acts 16 and 46 of the 2015 Regular Session of the Louisiana Legislature (hereafter "Acts"), shall freeze expenditures and positions as provided in this Executive Order.

SECTION 2: No department, agency, and/or budget unit of the executive branch of the State of Louisiana, unless specifically exempted by a provision of this order or with the approval of the Commissioner of Administration, shall make any expenditure of funds related to vacant positions and the expenditure categories of Travel, Operating Services, Supplies, Professional Services, Other Charges, Acquisitions, and Major Repairs.

#### SECTION 3:

A. The budget activities funded by the Acts which are exempt from the prohibitions set forth in Section 2 of the order are as follows:

1. All budget activities directly related to declared emergencies and coastal restoration;

2. All budget activities directly necessary for a statewide elected official to perform his or her constitutional functions;

3. All essential budget activities which are expressly and directly mandated by the constitution, existing

court orders, existing cooperative endeavor agreements, or existing bona fide obligations;

4. All contracts associated with the transformation of state government that lead to future savings;

5. All essential budget activities of statewide control agencies;

6. All essential budget activities directly required for collection of state general fund revenues recognized by the Revenue Estimating Conference;

7. All budget activities which are financed by Federal Funds directly; and

8. All budget activities associated with Schedule 19A Higher Education.

B. Other budget activities funded by the Acts are exempt from the prohibitions set forth in Section 2 of this order to the following degree:

1. Essential expenses for incarceration, rehabilitation, diagnostic and health services, transportation of offenders, and probation and parole services related to adult corrections as well as positions and field travel for the Board of Pardons and Parole in the Department of Public Safety and Corrections, Corrections Services;

2. Essential expenses for juvenile secure care facilities and the Field Services activities in the Department of Public Safety and Corrections, Youth Services;

3. Essential expenses related to direct patient care;

4. Essential State Police commissioned trooper expenses and cadet classes as well as data processing, communications, and crime lab positions in Public Safety Services, field travel for public safety and regulatory activities of the State Police, as well as automotive, aviation, and forensic supplies for the State Police;

5. Essential Wildlife and Fisheries commissioned agent expenses and cadet classes as well as data processing, and communications, field travel for public safety and regulatory activities of the Enforcement Division, as well as automotive, watercraft and aviation, supplies for the Enforcement Division;

6. Essential instructional and residential expenses field travel, and supplies deemed to be absolutely critical for the operations of Special Schools, Recovery School District, Special School District, and Youth Challenge;

7. Essential expenses for the State Military Department associated with the deployment for backfilling for active duty National Guard personnel, and installation management and force protection;

8. Essential expenses related to the housing of state adult and juvenile offenders in local correctional or detention facilities or work release programs; and

9. All vacant position and expenditures of Schedule 09 Department of Health and Hospitals and Schedule 19E Louisiana State University Health Sciences Center Health Care Services Division except contracts that are not otherwise exempted in Section 3.

C. The budget activities funded by the Acts which are exempt from the portion of the provisions of Section 2 of this order that prohibits the expenditure of funds for travel are as follows:

1. Essential travel associated with promoting or marketing the state of Louisiana and/or its products by: a) the Office of Tourism within the Department of Culture, Recreation and Tourism; or b) the Department of Economic Development;

2. Essential field travel for the Mental Health Advocacy Service and the Louisiana Public Defender Board;

3. Essential field travel required for legal affairs in the Office of Management and Finance, district managers and roving motor vehicle workers in the Office of Motor Vehicles, and inspectors and arson investigators in the Office of the State Fire Marshal within the Department of Public Safety and Corrections, Public Safety Services;

4. Essential field travel for the Municipal Fire and Police Civil Service and the State Police Commission deemed to be essential;

5. Essential travel for the Board of Elementary and Secondary Education for board meetings; and

6. Essential field travel associated with Minimum Foundation Program internal auditors and field travel associated with the accountability initiatives and monitoring local teacher assessments.

D. The budget activities funded by the Acts which are exempt from the portions of the provisions of Section 2 of this order that prohibits the expenditure of funds for supplies, acquisitions, and major repairs are as follows:

1. Essential expenditures of all departments, agencies, offices, boards, and commissions for supplies that total no more than seventy-five (75) percent of the initial appropriation for supplies, acquisitions, and major repairs for the department, agency, office, board or commission from State General Fund (direct) or State General Fund Equivalent;

2. Essential supplies, acquisitions, and major repairs for the Office of State Parks within the Department of Culture, Recreation and Tourism for maintenance and household needs to maintain state parks and commemorative areas; and

3. Essential automotive supplies, acquisitions, and major repairs for travel exempted in Section 3.

SECTION 4: The Louisiana Department of Health and Hospitals is exempted from this order for any expenditures and positions necessary for Medicaid enrollment, eligibility determinations, or fraud investigations.

SECTION 5: The Commissioner of Administration is further authorized to provide exemptions to this order only by written authorization.

SECTION 6: The Commissioner of Administration is authorized to develop additional guidelines as necessary to facilitate the administration of this order.

SECTION 7: All departments, commissions, boards, offices, entities, agencies, and officers of the State of Louisiana, or any political subdivision thereof, are authorized and directed to cooperate in the implementation of the provisions of this Order.

SECTION 8: This Order is effective upon signature and shall remain in effect unless amended, modified, terminated, or rescinded.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana, at the Capitol, in the city of Baton Rouge, on this 14th day of February, 2016.

John Bel Edwards  
Governor

ATTEST BY  
THE GOVERNOR  
Tom Schedler  
Secretary of State  
1603#003

#### EXECUTIVE ORDER JBE 16-04

##### Executive Branch—Expenditure Reduction

WHEREAS, pursuant to La. R.S. 39:75(A)(1), the Division of Administration is directed to submit a monthly budget status report to the Joint Legislative Committee on the Budget (hereafter "the Committee") indicating the balance of the budget for the State General Fund and dedicated funds by comparing the official forecast for these funds to the total authorized appropriations from each fund; once approved by the Committee, the most recent budget status report becomes the official budget status of the State;

WHEREAS, if the most recently approved budget status report indicates that the total appropriation from any fund will exceed the official forecast for that fund, La. R.S. 39:75(B) requires the Committee to immediately notify the Governor that a projected deficit exists for that fund;

WHEREAS, on February 13, 2016, the Committee notified the Governor that it approved a budget status report at its February 13, 2016, meeting, indicating that a projected deficit of \$570,100,000 exists in the State General Fund for Fiscal Year 2015-2016, based on the revised official forecast of revenue available for appropriation adopted by the Revenue Estimating Conference on February 10, 2016, compared to total appropriations;

WHEREAS, once notified that a projected deficit exists, pursuant to Article VII, Section 10, of the Constitution of Louisiana and La. R.S. 39:75(C)(1)(a), the Governor has interim budget balancing powers to adjust the budget, including the authority to reduce appropriations for the executive branch of government for any program that is appropriated from a fund that is in a deficit posture, not exceeding three percent (3%) in the aggregate of the total appropriations for each budget unit for the fiscal year up to 5% of the State General Fund allocations or appropriations, or \$445,640,766, and if the Governor does not make necessary adjustments in the appropriations to eliminate the projected deficit within thirty (30) days of the determination of the projected deficit in a fund, La. R.S. 39:75(D) mandates that the Governor call a special session of the Louisiana Legislature for that purpose;

WHEREAS, on November 20, 2015, the Committee notified the Governor of a projected deficit of \$487,277,518 in the current fiscal year;

WHEREAS, the Governor and the Committee reduced the State General Fund appropriations by \$352,665,361 under Article VII, Section 10, of the Constitution of Louisiana, leaving a possible State General Fund reduction of \$92,975,405 under this authority for the Governor and the Committee;

WHEREAS, since the state has less than five months remaining in the current fiscal year and State General Fund dollars are now limited, I have reviewed and elected to cut, by this order, 10% of the remaining three-fifths of the State General Fund available for further reduction, while protecting higher education and Medicaid from further State General Fund reductions;

WHEREAS, as authorized by Article VII, Section 10, of the Constitution of Louisiana, and La. R.S. 39:75(C)(1)(a), I am exercising my unilateral interim budget balancing powers to reduce the projected deficit by \$21,734,240;

WHEREAS, one-third of the Budget Stabilization Fund as determined by La. R.S. 39:95 is \$156,624,004, and \$28,164,341 of that amount was authorized by the legislature to help resolve the deficit declared on November 20, 2015;

WHEREAS, as authorized by La. R.S. 39:94(C)(2) and La. R.S. 39:87(1), I am requesting the legislature to approve the use of the Budget Stabilization Fund in the amount of \$128,459,663 which is the remainder of the one-third balance of the fund at the beginning of the current fiscal year in accordance with La. R.S. 39:95;

WHEREAS, after utilizing those authorities, \$419,906,097 remains of the projected deficit which must be eliminated, therefore I direct the Commissioner of Administration to present to the Committee for its approval a plan to further reduce the projected deficit pursuant to La. R.S. 39:75(C), including \$5,630,023 under Article VII, Section 10, of the Constitution of Louisiana;

WHEREAS, the remaining \$65,611,142 reductions authorized by Article VII, Section 10, of the Constitution of Louisiana by the Governor and the Committee would be taken by higher education and Medicaid after consideration by the Legislature during the First Extraordinary Session;

WHEREAS, I will present to the Legislature in the 2016 First Extraordinary Session additional reductions, revenues, and statutory changes to eliminate the remaining amount of the deficit; and

WHEREAS, this Executive Order and the plan to be submitted to the Committee and the Legislature may utilize all or a portion of the General Fund dollar savings objective specified in Executive Order JBE 2016-03.

NOW THEREFORE, I, JOHN BEL EDWARDS, Governor of the State of Louisiana, by virtue of the authority vested by the Constitution and laws of the State of Louisiana, do hereby order and direct as follows:

SECTION 1: The following departments, agencies, and/or budget units (hereafter "Unit" and/or "Units") of the executive branch of the State of Louisiana, as described in and/or funded by appropriations through Acts 16, 26, and 46 of the 2015 Regular Session of the Louisiana Legislature (hereafter "the Acts"), shall reduce expenditure of funds appropriated to the Unit from the State General Fund by the Acts, and associated positions, in the amounts shown below:

<b>Schedule 01-Executive Department</b>	<b>State General Fund</b>
01-100 Executive Office	\$ 138,812
01-102 Office of the State Inspector General	\$ 52,251
01-103 Mental Health Advocacy Service	\$ 64,196
01-106 Louisiana Tax Commission	\$ 72,395
01-107 Division of Administration	\$ 478,883
01-111 Governor's Office of Homeland Security and Emergency Preparedness	\$ 34,002
01-112 Department of Military Affairs	\$ 535,430
01-129 Louisiana Commission on Law Enforcement	\$ 125,235
01-133 Office of Elderly Affairs	\$ 344,533
<b>Schedule 04-Elected Officials</b>	
04-139 Secretary of State	\$ 768,568
04-146 Lieutenant Governor	\$ 13,051
04-160 Agriculture and Forestry	\$ 111,000
<b>Schedule 05-Economic Development</b>	
05-251 Office of the Secretary	\$ 190,457
05-252 Office of Business Development	\$ 157,528
<b>Schedule 06-Culture, Recreation and Tourism</b>	
06-261 Office of the Secretary	\$ 77,458
06-262 Office of the State Library of Louisiana	\$ 26,002
06-263 Office of State Museum	\$ 54,638
06-264 Office of State Parks	\$ 545,720
06-265 Office of Cultural Development	\$ 2,762
06-267 Office of Tourism	\$ 23,850
<b>Schedule 08-Public Safety and Corrections – Youth Services</b>	
08-403 Office of Juvenile Justice	\$ 2,366,971
<b>Schedule 09-Health and Hospitals</b>	
09-300 Jefferson Parish Human Services Authority	\$ 111,648
09-301 Florida Parishes Human Services Authority	\$ 202,620
09-302 Capital Area Human Services District	\$ 270,352
09-303 Developmental Disabilities Council	\$ 13,751
09-304 Metropolitan Human Services District	\$ 494,323
09-307 Office of the Secretary	\$ 614,798
09-309 South Central Louisiana Human Services Authority	\$ 369,007
09-310 Northeast Delta Human Services Authority	\$ 175,081
09-320 Office of Aging and Adult Services	\$ 131,966
09-324 Louisiana Emergency Response Network	\$ 44,285
09-325 Acadiana Area Human Services District	\$ 269,039
09-326 Office of Public Health	\$ 715,009
09-330 Office of Behavioral Health	\$ 412,749
09-340 Office of Citizens with Developmental Disabilities	\$ 201,445
09-375 Imperial Calcasieu Human Services Authority	\$ 189,777
09-376 Central Louisiana Human Services District	\$ 235,906
09-377 Northwest Louisiana Human Services District	\$ 136,605
<b>Schedule 10-Department of Children and Family Services</b>	
10-360 Office of Children and Family Services	\$ 4,137,390
<b>Schedule 11-Natural Resources</b>	
11-434 Office of Mineral Resources	\$ 39,492
<b>Schedule 13 – Environmental Quality</b>	
13-850 Office of the Secretary	\$ 18,301
<b>Schedule 14-Louisiana Workforce Commission</b>	
14-474 Workforce Support and Training	\$ 3,967
<b>Schedule 17-Civil Service</b>	
17-562 Ethics Administration	\$ 86,852
17-563 State Police Commission	\$ 9,259
17-565 Board of Tax Appeals	\$ 5,251
<b>Schedule 19-Special Schools and Commissions</b>	
19B-653 Louisiana Schools for the Deaf and Visually Impaired	\$ 566,770
19B-657 Louisiana School for Math, Science, and the Arts	\$ 151,469
19B-662 Louisiana Educational Television Authority	\$ 31,345
19B-666 Board of Elementary and Secondary Education	\$ 15,701
19B-673 New Orleans Center for the Creative Arts	\$ 128,925
<b>Schedule 19-Department of Education</b>	
19D-678 State Activities	\$ 945,439
19D-681 Subgrantee Assistance	\$ 2,052,790

19D-682 Recovery School District	\$ 37,189
19D-697 Nonpublic Educational Assistance	\$ 788,821
19D-699 Special School District	\$ 259,468
<b>Schedule 19E-Louisiana State University Health Science Center</b>	
19E-610 Louisiana Health Care Services Division	\$ 1,116,282
<b>Schedule 20-Other Requirements</b>	
20-906 District Attorneys and Assistant District Attorneys	\$ 523,864
20-933 Governor's Conferences and Interstate Compacts	\$ 2,778
20-941 Agriculture and Forestry – Pass Through Funds	\$ 40,784

#### SECTION 2:

A. No later than February 29, 2016, the head of each Unit listed in Section 1 of this Order shall submit to the Commissioner of Administration (hereafter "Commissioner") a mid-year budget reduction plan, on the BA-7 form and questionnaire, which reflects the Unit's proposed allocation of the expenditure reduction ordered in Section 1 of this Order (hereafter "mid-year budget reduction plan"), and a description of the methodology used to formulate the mid-year budget reduction plan.

B. In the event that positions of employment will be affected by the mid-year budget reduction, these positions should be included in your mid-year budget reduction plan.

C. No Unit shall implement the expenditure reduction mandated by Section 1 of this Order without the Commissioner's prior written approval of the Unit's mid-year budget reduction plan.

D. After the Commissioner has given approval of a Unit's mid-year budget reduction plan, any change to the mid-year budget reduction plan requires prior written approval from the commissioner.

SECTION 3: The Commissioner is authorized to develop additional guidelines as necessary to facilitate the administration of this Order.

SECTION 4: All departments, commissions, boards, offices, entities, agencies, and officers of the State of Louisiana, or any political subdivision thereof, are authorized and directed to cooperate in the implementation of the provisions of this Order.

SECTION 5: This Order is effective upon signature and shall remain in effect through June 30, 2016, unless amended, modified, terminated, or rescinded prior to that date.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana, at the Capitol, in the city of Baton Rouge, on this 14th day of February, 2016.

John Bel Edwards  
Governor

ATTEST BY  
THE GOVERNOR  
Tom Schedler  
Secretary of State  
1603#004

### EXECUTIVE ORDER JBE 16-05

#### Review of Executive Branch Contracts

WHEREAS, the State of Louisiana is in an unprecedented fiscal crisis for FY 2016 and FY 2017;

WHEREAS, the Commissioner of Administration is conducting a review of all state expenditures to find opportunities for savings and responsible reductions;

WHEREAS, as a part of this process, it is vital for the Commissioner of Administration have a review done of all professional, personal, and consulting contracts; and

WHEREAS, all offices, departments, agencies, boards, commissions, and budget units of the executive branch shall undertake a review of all professional, personal, and consulting contracts to determine the necessity of each contract, the appropriateness of the expense of the contract, and whether any savings can be found from reduction or elimination of the contract.

NOW THEREFORE, I, JOHN BEL EDWARDS, Governor of the State of Louisiana, by virtue of the authority vested by the Constitution and laws of the State of Louisiana, do hereby order and direct as follows:

SECTION 1: All offices, departments, agencies, boards, commissions, and/or budget units of the executive branch of the State of Louisiana or as described in and/or funded by appropriations through Acts 16 and 46 of the 2015 Regular Session of the Louisiana Legislature (hereafter "Acts"), shall undertake a review of all professional, personal, and consulting contracts to determine the necessity of each contract, the appropriateness of the expense of the contract, and whether any savings can be found from reduction or elimination of the contract.

SECTION 2: All of the above offices, departments, agencies, boards, commissions, and/or budget units of the executive branch shall prepare a written report detailing the results of this review to the Commissioner of Administration within thirty (30) days of this order.

SECTION 3: The Commissioner of Administration shall review all submitted reports and shall order the cancellation or reduction of any professional, personal, or consulting contracts deemed to be inappropriate, unnecessary, or duplicative.

SECTION 4: The Commissioner of Administration is authorized to develop additional guidelines as necessary to facilitate the administration of this order.

SECTION 5: All departments, commissions, boards, offices, entities, agencies, and officers of the State of Louisiana, or any political subdivision thereof, are authorized and directed to cooperate in the implementation of the provisions of this order.

SECTION 6: This order is effective upon signature and shall remain in effect unless amended, modified, terminated, or rescinded.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana, at the Capitol, in the city of Baton Rouge, on this 14th day of February, 2016.

John Bel Edwards  
Governor

ATTEST BY  
THE GOVERNOR  
Tom Schedler  
Secretary of State  
1603#005

#### EXECUTIVE ORDER JBE 16-06

##### Suspension of Early Voting

WHEREAS, La. R.S. 18:401.1 provides a procedure whereby the emergency suspension or delay and rescheduling of qualifying, early voting and elections can occur when there is a possibility of an emergency or common disaster occurring before or during a regularly scheduled or special election "in order to ensure maximum citizen participation in the electoral process and provide a safe and orderly procedure for persons seeking to qualify or exercise their right to vote, to minimize to whatever degree possible a person's exposure to danger during declared states of emergency, and to protect the integrity of the electoral process..."

WHEREAS, early voting for the March 5, 2016 Presidential Preference Primary, Municipal Primary and proposition elections is scheduled to be conducted within the State of Louisiana on February 23, 2016 from 8:30 a.m. until 6:00 p.m.;

WHEREAS, on February 23, 2016, pursuant to the provisions of La. R.S. 18:401.1(B), the Secretary of State certified to the Governor that, as a result of the severe weather which has prompted the closure of state government offices in multiple parishes on February 23, 2016, a state of emergency exists in the parishes of Ascension, Assumption, East Baton Rouge, East Feliciana, Iberville, Jefferson, Lafourche, Livingston, Orleans, Pointe Coupee, St. Charles, St. Helena, St. James, St. John the Baptist, St. Tammany, Tangipahoa, Terrebonne, Washington, West Baton Rouge and West Feliciana, and recommends that early voting be suspended from noon until 6:00 p.m. on February 23, 2016, and resume early voting at 8:30 a.m. on February 24, 2016 for all named parishes except the parish of Jefferson; recommends that early voting be suspended from 2:00 p.m. until 6:00 p.m. in the parish of Jefferson, and resume early voting at 8:30 a.m. on February 23, 2016; and recommends that early voting be suspended on February 23, 2016 until 6:00 p.m. and resume early voting at 8:30 a.m. on February 24, 2016 in any additional parish where the Commissioner of Administration or parish governing authority announces the closure of state or parish government offices.

NOW THEREFORE, I, JOHN BEL EDWARDS, Governor of the State of Louisiana, by virtue of the authority vested by the Constitution and laws of the State of Louisiana, do hereby order and direct as follows:

SECTION 1: Under the authority of La. R.S. 18:401.1(B) and based on the February 23, 2016

certification from the Secretary of State that a state of emergency exists in the above mentioned parishes:

(a) Early voting for the March 5, 2016 Presidential Preference Primary and proposition elections is suspended on February 23, 2016 from noon until 6:00 p.m. and early voting will resume on February 24, 2016 at 8:30 a.m. in the parishes of Ascension, Assumption, East Baton Rouge, East Feliciana, Iberville, Lafourche, Livingston, Orleans, Pointe Coupee, St. Charles, St. Helena, St. James, St. John the Baptist, St. Tammany, Tangipahoa, Terrebonne, Washington, West Baton Rouge and West Feliciana;

(b) Early voting for the March 5, 2016 Presidential Preference Primary and proposition elections is suspended on February 23, 2016 from 2:00 p.m. until 6:00 p.m. and early voting will resume on February 24, 2016 at 8:30 a.m. in the parish of Jefferson; and

(c) Early voting for the March 5, 2016 Presidential Preference Primary and proposition elections is suspended on February 23, 2016 until 6:00 p.m. and early voting will resume on February 24, 2016 at 8:30 a.m. in any additional parish where the Commissioner of Administration or parish governing authority announces the closure of state or parish government offices.

SECTION 2: This order is effective upon signature and shall remain in effect unless amended, modified, terminated, or rescinded.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana, at the Capitol, in the city of Baton Rouge, on this 23rd day of February, 2016.

John Bel Edwards  
Governor

ATTEST BY  
THE GOVERNOR  
Tom Schedler  
Secretary of State  
1603#008

#### EXECUTIVE ORDER JBE 16-07

##### Flags at Half Staff to Honor Representative Ronnie Edwards

WHEREAS, Louisiana State Representative Ronnie Edwards, died on Wednesday, February 24, 2016, at the age of 63;

WHEREAS, Ronnie Edwards was elected to the Louisiana House of Representatives in 2015 to represent the 29th district, and although her time in the House of Representatives was brief, Louisiana has lost a powerful voice of compassion and activism;

WHEREAS, before her election as a state representative, she served as a councilwoman with the East Baton Rouge Metro Council for two terms, advocating on issues such as affordable housing and health care;

WHEREAS, Representative Edwards devoted her life to the well-being of others and will be remembered for her warm demeanor and steadfast spirit;

WHEREAS, Representative Edwards was an admired public servant who fought for her district with the same fortitude with which she fought a difficult battle with cancer;



WHEREAS, she never let her illness hold her back, and found strength in her devout faith and the support of her family and friends; and

WHEREAS, Representative Edwards' tireless efforts and leadership made her community and the state of Louisiana a better place, and her legacy will endure for many years to come.

NOW THEREFORE, I, JOHN BEL EDWARDS, Governor of the State of Louisiana, by virtue of the authority vested by the Constitution and laws of the State of Louisiana, do hereby order and direct as follows:

SECTION 1: As an expression of respect for Representative Ronnie Edwards, the flags of the United States and the State of Louisiana shall be flown at half-staff over the State Capitol and all public buildings and institutions of the State of Louisiana until sunset on Friday, March 4, 2016.

SECTION 2: This Order is effective upon signature and shall remain in effect until sunset, Friday, March 4, 2016, unless amended, modified, terminated, or rescinded prior to that date.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana, at the Capitol, in the city of Baton Rouge, on this 2nd day of March, 2016.

John Bel Edwards  
Governor

ATTEST BY  
THE GOVERNOR  
Tom Schedler  
Secretary of State  
1603#019

# Policy and Procedure Memoranda

## POLICY AND PROCEDURE MEMORANDA

### Office of the Governor Division of Administration Office of State Procurement

PPM Number 59—Procurement Preferences; Application  
(LAC 4:V.Chapter 59)

#### Title 4

#### ADMINISTRATION

#### Part V. Policy and Procedure Memoranda

#### Chapter 59. Procurement Preferences; Application—PPM Number 59

##### §5901. Authority

A. Pursuant to R.S. 39:1551 et seq., the Office of State Procurement is required to provide for certain preferences in

the solicitation of products by state agencies and by local government buying off of statewide cooperative contracts.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1561 and 39:1564.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of State Procurement, LR 42:371 (March 2016).

##### §5903. Policy

A. To provide notification to vendors and to state and local government agencies, as well as for auditing purposes, it shall be the policy of the Office of State Procurement to list, as far as is practicable, all product preferences in this PPM, and to apply those preferences where applicable in all matters solicited through this office or under its authority.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1561 and 39:1564.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of State Procurement, LR 42:371 (March 2016).

##### §5905. Preference Chart

Preference	Authority	How Applied
Produce produced in LA	R.S. 39:1604(C)(1)	A 10% preference above the bid price is given to produce produced in LA
Produce Products produced and processed in LA	R.S. 39:1604(C)(1)	A 10% preference above the bid price is given to produce produced and processed in LA
Eggs laid in LA	R.S. 39:1604(C)(2)	A 10% preference above the bid price is given to vendor supplying eggs laid in LA
Egg Products processed from eggs laid in LA	R.S. 39:1604(C)(2)	A 10% preference above the bid price is given to vendor supplying egg products processed from eggs laid in LA
Meat and Meat Products processed in LA from animals that originated in Louisiana as evidenced by traceability documentation supplied by the manufacturer	R.S. 39:1604(C)(3)	A 10% preference above the bid price is given to vendor supplying meat and meat products processed in LA from animals that originated in Louisiana as evidenced by traceability documentation supplied by the manufacturer
Seafood harvested in LA seas or other LA waters or seafood and harvested by a person who holds a valid appropriate commercial fishing license issued pursuant to R.S. 56:1	R.S. 39:1604(C)(4)	A 10% preference above the bid price is given to vendor supplying seafood harvested in LA seas or other LA waters or seafood and harvested by a person who holds a valid appropriate commercial fishing license issued pursuant to R.S. 56:1
Products produced from Seafood, as described above, processed in LA	R.S. 39:1604(C)(4)	A 10% preference above the bid price is given to vendor supplying products produced from seafood, as described above, and which are processed in LA
Domesticated Catfish processed in LA from animals grown in LA	R.S. 39:1604(C)(5)	A 10% preference above the bid price is given to vendor supplying domesticated catfish processed in LA from animals grown in LA
Paper and Paper Products manufactured or converted in LA (See R.S. 39:1595(c)(6))	R.S. 39:1604(C)(6)	A 10% preference above the bid price is given to vendor supplying Paper and Paper Products manufactured or converted in LA (See R.S. 39:1595(c)(6))
All other agricultural or forestry products produced, manufactured, or processed in LA	R.S. 39:1604(C)(7)	A 10% preference above the bid price is given to vendor supplying all other agricultural or forestry products produced, manufactured, or processed in LA
Meat and Meat Products which are further processed in LA under the grading and certification service of La. Dept. of Ag.	R.S. 39:1604(D)	A 7% preference above the bid price is given to vendor supplying meat and meat products which are further processed in LA under the grading and certification service of La. Dept. of Ag.
Domesticated or Wild Catfish processed in LA but grown outside of LA	R.S. 39:1604(E)	A 7% preference above the bid price is given to vendor supplying domesticated or wild catfish processed in LA but grown outside of LA
Produce processed in LA but grown outside of LA	R.S. 39:1604(F)	A 7% preference above the bid price is given to vendor supplying produce processed in LA but grown outside of LA
Eggs or Crawfish which are further processed in LA under the grading service of La. Dept. of Ag.	R.S. 39:1604(G)	A 7% preference above the bid price is given to vendor supplying eggs or crawfish which are further processed in LA under the grading service of La. Dept. of Ag.
Materials, Supplies, Products, Provisions, or Equipment produced manufactured, or assembled in LA (excluding treated wood poles and piling)	R.S. 39:1604(H)	A 10% preference above the bid price is given to vendor supplying materials, supplies, products, provisions, or equipment produced manufactured, or assembled in LA
In-State Vendor (Reciprocal Preference)	R.S. 39:1604.1	In the awarding of contracts by any public entity, except contracts for construction, maintenance, or repair of highways and streets, contracts financed in whole or in part by contributions or loans from any agency of the US govt., where both in-state and out-of-state vendors are bidding, in-state vendors shall be given preference that any of the out-of-state vendors would be given on a comparative bid in their own state.

Commented [CB1]:

Preference	Authority	How Applied
Contractors Domiciled in LA (Reciprocal Preference)	R.S. 39:1604.2	In the letting of contracts for public work by any public entity, except contracts financed in whole or in part by contributions or loans from any agency of the US govt, preference shall be given to contractors domiciled in LA over contractors domiciled in a state that provides for a preference in favor of contractors domiciled in the state over contractors domiciled in LA for the same type of work Contractors domiciled in LA are to be granted the same preference over contractors domiciled therein with a preference over contractors domiciled in LA in the same manner and on the same basis and to the same extent that such preference may be granted in letting contracts for the same type of work by such other state to contractors domiciled therein over contractors domiciled in LA.
In-state vendor of rodeos and livestock shows where state-owned facilities will be used to house or contain such activities	R.S. 39:1604.3	A 10% preference above the bid price is given to vendor in the award of contracts by any public entity for services to organize or administer rodeos and livestock shows where state-owned facilities will be used to house or contain such activities, and where both in-state and out-of-state vendors are bidding.
Goods manufactured, or services performed by sheltered workshops	R.S. 39:1604.4	Every governmental body shall give a preference in its purchasing practices to goods manufactured and services performed by individuals with severe disabilities in state-operated and state-supported sheltered workshops.
Products manufactured or services rendered by individuals who are blind	R.S. 23:3025	Whenever the state or a political subdivision of the State has occasion to purchase any product manufactured by individuals who are blind or utilize any service rendered by individuals who are blind, it shall communicate with LA Workforce Commission to ascertain whether such products are available. To the extent available, the state and its subdivisions may purchase them in the manner provided and at prices fixed by LA Workforce Commission.
Items purchased from LA Retailers	R.S. 39:1604.5	A 10% preference above the bid price is given to retail dealer located in LA supplying items for retail purchase. The retail dealer shall qualify if it can show that it has paid the LA corporate income, corporate franchise, and inventory taxes or any combination thereof during the previous twelve-month period.
Steel rolled in LA	R.S. 39:1604.6	A 10% preference above the bid price is given to vendor supplying steel rolled in LA. *Does not apply when sufficient quantities of steel rolled in LA are not available.
Items manufactured in the United States	R.S. 39:1604.7	A 5% preference above the bid price is given to vendor supplying steel rolled in LA
Purchases from Local vendors by Local governing authorities	R.S. 39:1710	A 7% (on purchases up to \$10,000), 5% (on purchases between \$10,000 and \$20,000), or 3% (on purchases over \$20,000) preference above the bid price is given to local vendor when a local governing authority purchases an item at the state bid price through a local vendor.

Commented [CB1]:

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1561 and 39:1564.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of State Procurement, LR 42:371 (March 2016).

**§5907. Right to Negotiate Prices or Cancel Solicitation; Additional Preferences**

A. Nothing in this policy shall prevent the Office of State Procurement or an agency from negotiating with a vendor to lower its prices or an agency from canceling a solicitation where a preferred product is determined to exceed an agency's allocated budget for the product.

B. The Office of State Procurement shall revise the list of preferences herein from time to time to recognize new or additional procurement preferences as may be appropriate. Newly enacted statutory preferences, however, shall be enforced immediately upon their effective dates.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1561 and 39:1564.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of State Procurement, LR 42:372 (March 2016).

Paul A. Holmes  
Director

1603#018

# Emergency Rules

## DECLARATION OF EMERGENCY

### Department of Children and Family Services Division of Programs Licensing Section

Health Status (LAC 67:V.7313 and 7315)

The Department of Children and Family Services (DCFS) has exercised the emergency provisions of the Administrative Procedure Act, R.S. 49:953(B), to amend LAC 67:V, Subpart 8, Chapter 73, Child Placing Agencies—General Provisions, Sections 7313 and 7315. This Emergency Rule shall be effective February 26, 2016 and shall remain in effect for a period of 120 days.

The department considers emergency action necessary due to the increased number of children entering the foster care system and the need for available foster and adoptive homes. The department seeks to expand the number of potential applicants which enables the department to certify additional foster and adoptive parents who will provide a safe and nurturing environment for our most vulnerable citizens.

#### Title 67

### SOCIAL SERVICES

#### Part V. Child Welfare

#### Subpart 8. Residential Licensing

### Chapter 73. Child Placing Agencies—General Provisions

#### §7313. Foster Care Services

A. - B.2.d.iv.(a). ...

v. health;

(a). a statement for each member of the applicant's household signed by a licensed physician or licensed health care professional verifying that the individual:

(i). has no past nor present physical or mental illness or condition that would present a health or safety risk to a child placed in the applicant's home;

(ii). is physically able to provide necessary care for a child; and

(iii). is free of a communicable or infectious disease or if not free of a communicable or infectious disease, there shall be a signed statement by the licensed treating physician or licensed treating health care professional verifying the following:

[a]. the individual is under the care of a licensed physician or licensed health care professional; and

[b]. the present condition does not present a health or safety risk to a child placed in the applicant's home.

B.2.e. - C.5.b.vii. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and ACT 64 of the 2010 Regular Legislative Session.

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 37:833 (March 2011), amended LR 38:985 (April 2012), LR 42:222 (February 2016), LR 42:

#### §7315. Adoption Services

A. - F.2.d.iv.(a). ...

v. health:

(a). a statement for each member of the applicant's household signed by a licensed physician or licensed health care professional verifying that the individual:

(i). has no past nor present physical or mental illness or condition that would present a health or safety risk to a child placed in the applicant's home;

(ii). is physically able to provide necessary care for a child; and

(iii). is free of a communicable or infectious disease or if not free of a communicable or infectious disease, there shall be a signed statement by the licensed treating physician or licensed treating health care professional verifying the following:

[a]. the individual is under the care of a licensed physician or licensed health care professional; and

[b]. the present condition does not present a health or safety risk to a child placed in the applicant's home.

F.2.e. - J.4.e. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and ACT 64 of the 2010 Regular Legislative Session.

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 37:842 (March 2011), amended LR 42:

Marketa Garner Walters

Secretary

1603#010

## DECLARATION OF EMERGENCY

### Department of Economic Development Office of Business Development

Enterprise Zone Program (LAC 13:I.Chapter 7)

This Emergency Rule is being published pursuant to emergency provisions of the Administrative Procedure Act, R.S. 49:953(B). The Department of Economic Development has an immediate need for rules for the Enterprise Zone Program (R.S. 51:1787 and R.S. 51:921 et seq.), to effect fees under the new fee schedule provided by HB 773 of the 2015 Regular Session of the Louisiana Legislature. A delay in imposition of such fees would hinder effective administration of this program, impose unfunded and unrecoverable costs on the department, and delay access to the program by qualified applicants, resulting in an adverse financial impact on the state, the department, Louisiana businesses and taxpayers. This Emergency Rule shall become effective February 29, 2016, and shall remain in effect for the maximum period allowed under the Administrative Procedure Act, or until a final Rule is promulgated in accordance with law, whichever occurs first.

This Emergency Rule is being promulgated in order to continue the provisions of the October 29, 2015 Emergency Rule (effective for 120 days), published in the *Louisiana Register*, as an Emergency Rule in the November 2015 edition, and then which was incorporated into a Notice of Intent in the November 2015 edition, with a public hearing held in December 2015. The department intends to continue the rule-making process and promulgate final rules within the requisite time period allowed under the APA.

#### **Title 13**

### **ECONOMIC DEVELOPMENT**

#### **Part I. Financial Incentive Programs**

#### **Chapter 7. Enterprise Zone Program**

##### **§717. Annual Employee Certification**

A. An annual employee certification report (ECR) must be filed with the business incentive services by May 31 on all active contracts validating compliance with §§709, 711, 713, and 715. An employee certification report fee of \$250 shall be submitted with the report. Failure to file may result in contract cancellation. One 30-day extension may be granted if requested in writing.

B. - D.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1786(5).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development, LR 29:2301 (November 2003), amended LR 37:2373 (August 2011), LR 40:494 (March 2014), LR 42:

##### **§721. Advance Notification**

A. An advance notification form, and a \$250 fee, shall be filed with business incentive services prior to the beginning of the project. All incentives for the same project must be indicated on one advance notification and be identified by one project number. It is not acceptable to apply for Enterprise Zone Program and use the same project in a miscellaneous capital addition application for the Industrial Tax Exemption Program. Internet filing of the advance notification may be made at the department website.

B. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1786(5).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development LR 29:2302 (November 2003), amended LR 37:2373 (August 2011), LR 40:495 (March 2014), LR 42:

##### **§723. Application**

A. - B. ...

C. An application fee equal to 0.5 percent (0.005) of the total estimated tax relief shall be submitted with each application. Total estimated tax relief includes jobs tax credits, state sales and use tax rebates and investment tax credits. Jobs tax credits are calculated by multiplying the total new jobs estimated to be created within the five-year contract period by \$2,500 (\$5,000 for rubber, aerospace or auto parts manufacturers). An additional application fee will be due if a project's employment or investment is increased from that stated in the application, resulting in a minimum fee of \$100 more than previously paid. The minimum fee is \$500 and the maximum fee is \$15,000 per application. All fees shall be made payable to Louisiana Department of Economic Development.

D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1786(5).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development, LR 29:2303 (November 2003), amended LR 37:2373 (August 2011), LR 40:495 (March 2014), LR 42:

##### **§729. Enterprise Zone Program Contract**

A. ...

B. Business incentive services must be notified, on the prescribed form, of any change that will affect the contract. A fee of \$250 shall be submitted with a request for any contract amendment. This includes, but is not limited to, changes in the ownership or operational name of the business holding a contract, or the suspension, closing, or abandonment of operations. Failure to report any changes within six months may constitute a breach of contract.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1786(5).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development, LR 37:2374 (August 2011), amended LR 40:496 (March 2014), LR 42:

##### **§731. Project Completion**

A. Within six months after the project ending date or the governor's signature on the contract, whichever is later, the business shall file with business incentive services, on the prescribed form, a project completion report and an affidavit of final cost. A project completion report fee of \$250 and an affidavit of final cost fee of \$250 shall be submitted with these forms or any amendments to these forms.

B. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1786(5).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development, LR 37:2374 (August 2011), amended LR 40:496 (March 2014), LR 42:

Anne G. Villa  
Undersecretary

1603#012

#### **DECLARATION OF EMERGENCY**

#### **Department of Economic Development Office of Business Development**

Quality Jobs Program (LAC 13:I.Chapter 11)

This Emergency Rule is being published pursuant to emergency provisions of the Administrative Procedure Act, R.S. 49:953(B). The Department of Economic Development has an immediate need for rules for the Quality Jobs Program (R.S. 51:2451 et seq., and R.S. 51:921 et seq.), to effect fees under the new fee schedule provided by HB 773 of the 2015 Regular Session of the Louisiana Legislature. A delay in imposition of such fees would hinder effective administration of this program, impose unfunded and unrecoverable costs on the department, and delay access to the program by qualified applicants, resulting in an adverse financial impact on the state, the department, Louisiana businesses and taxpayers. This Emergency Rule shall become effective February 29, 2016, and shall remain in

effect for the maximum period allowed under the Administrative Procedure Act, or until a final Rule is promulgated in accordance with law, whichever occurs first.

This Emergency Rule is being promulgated in order to continue the provisions of the October 29, 2015 Emergency Rule (effective for 120 days), published in the *Louisiana Register*, as an Emergency Rule in the November 2015 edition, and previously as a Notice of Intent in the October 2015 edition, with a public hearing held on November 24, 2015. The department intends to continue the rule-making process and promulgate final rules within the requisite time period allowed under the APA.

### **Title 13**

### **ECONOMIC DEVELOPMENT**

### **Part I. Financial Incentive Programs**

### **Chapter 11. Quality Jobs Program**

### **§1107. Application Fees, Timely Filing**

A. The applicant shall submit an advance notification on the prescribed form before locating the establishment or the creation of any new direct jobs in the state. All financial incentive programs for a given project shall be filed at the same time, on the same advance notification form. An advance notification fee of \$250, for each program applied for, shall be submitted with the advance notification form. An advance notification filing shall be considered by the department to be a public record under *Louisiana Revised Statutes*, title 44, chapter 1, Louisiana public records law, and subject to disclosure to the public.

B. ...

C. An application fee shall be submitted with the application based on the following:

1. 0.5 percent (.005) times the estimated total incentive rebates (see application fee worksheet to calculate);

2. the minimum application fee is \$500 and the maximum application fee is \$15,000 for a single project;

3. an additional application fee will be due if a project's employment or investment scope is or has increased, unless the maximum has been paid.

D. An application to renew a contract shall be filed within 60 days of the initial contract expiring. A fee of \$250 must be filed with the renewal contract.

E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2451-2462 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Commerce and Industry, Financial Incentives Division, LR 22:963 (October 1996), amended by the Department of Economic Development, Office of Business Development, Business Resources Division, LR 29:2308 (November 2003), amended by the Office of Business Development, LR 37:2591 (September 2011), LR 42:

### **§1117. The Contract**

A. The board, after no objection from the executive director of the LWC and secretary of the LDR, and with the approval of the governor, may enter into a contract with an employer for a period up to five years.

1. - 5. ...

6. A fee of \$250 shall be filed with a request for any contract amendment, including but not limited to, a change of ownership, change in name, or change in location.

B. - F.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2451-2462 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Commerce and Industry, Financial Incentives Division, LR 22:965 (October 1996), amended by the Department of Economic Development, Office of Business Development, Business Resources Division, LR 29:2309 (November 2003), amended by the Office of Business Development, LR 37:2592 (September 2011), LR 42:

### **§1123. Rebate Claim Filing**

#### **A. Payroll Rebate**

1. An annual certification and a fee of \$250 shall be filed annually, commencing within six months after completion of the applicant's fiscal year or execution of the contract, whichever is later. The department may grant an extension of up to an additional six months provided the extension is requested prior to the filing deadline. Failure to file an annual certification within the prescribed timeframe may result in the annual rebate being denied or restricted. An annual certification is required in each year the contract is active, irrespective of whether annual rebates are being claimed.

2. - 6. ...

#### **B. Sales and Use Tax Rebate or Investment Tax Credit**

1. An annual employee certification report with a \$250 annual employee certification report fee must be filed on all active contracts for the employer to qualify for the sales and use tax rebate or investment tax credit under this Chapter. Employers must meet the requirements of the Enterprise Zone legislation and rules to qualify.

2. - 3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2451-2462 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development, Business Resources Division, LR 29:2311 (November 2003), amended by the Office of Business Development, LR 37:2594 (September 2011), LR 42:

Anne G. Villa  
Undersecretary

1603#013

## **DECLARATION OF EMERGENCY**

### **Board of Elementary and Secondary Education**

Bulletin 111—The Louisiana School, District, and State Accountability System (LAC 28:LXXXIII.405 and 1107)

The Board of Elementary and Secondary Education (BESE) has exercised the emergency provision in accordance with R.S. 49:953(B), the Administrative Procedure Act, and R.S. 17.6 to amend LAC 28:LXXXIII, *Bulletin 111—The Louisiana School, District, and State Accountability System*: §405, Calculating a K-8 Assessment Index; and §1107, Unknown School and District Performance Due to Nonparticipation in State Assessments (2014-2015 Only). This Declaration of Emergency, effective December 2, 2015, is being extended beyond the initial period of 120 days and will remain in effect until the final Rule becomes effective.

The proposed policy revisions ensure that, for the 2015-2016 school year only, a steady school and district accountability system exists for elementary and middle schools while the state conducts a statewide field test in social studies for grades three through eight. Additionally, the proposed policy revisions address accountability aspects of non-participation for grades three through eight English language arts and mathematics exams for spring 2015 testing. BESE has exercised the emergency provision in the adoption of these policy revisions in order to apply the policies to the release of the 2014-2015 school performance scores.

## Title 28 EDUCATION

### Part LXXXIII. Bulletin 111—The Louisiana School, District, and State Accountability System Chapter 4. Assessment and Dropout/Credit Accumulation Index Calculations

#### §405. Calculating a K-8 Assessment Index

A. - E. ...

F. When middle schools students participate only in an EOC exam and not also the grade-level assessment in a given subject, EOC test results shall be used in the middle school's assessment index (100 for "good" and 150 for "excellent") and will be weighted by content as noted in the table above. Middle schools will also earn incentive points for all EOC scores of "good" or "excellent" earned during the same year in which the test was administered.

a. Incentive points will be awarded as follows:

- i. excellent = 50;
- ii. good = 25.

G. The policy, as outlined in §405.F, shall also apply to combination schools. The EOC score will be used in middle school results for the year in which the EOC is taken, incentive points may be awarded, and the score will be banked for use in the high school score once the student arrives in ninth grade, as outlined in §409.A.3.

H. In the 2015-2016 school year, the social studies test will be administered as a field test only. When calculating the K-8 assessment index for the 2015-2016 school year, either the 2013-2014 or 2014-2015 social studies assessment index, whichever yields the higher school performance score, shall be used as the social studies component of the overall assessment index.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1021 (June 2006), amended LR 36:1989 (September 2010), LR 38:3106 (December 2012), LR 42:

#### Chapter 11. School Performance Categories

#### §1107. Unknown School and District Performance Due to Nonparticipation in State Assessments (2014-2015 Only)

A. For the 2014-2015 school year only, if the number of nonparticipants (see §4101.B of this bulletin) in grades 3 to 8 English language arts and mathematics is greater than 10 percent of all testers for that school, then the LDE shall carry forward the 2013-2014 school performance score and letter grade of said school as the 2014-2015 annual school performance score and letter grade, and shall clearly note the use of the 2013-2014 result, due to nonparticipation, on the annual public report card.

1. If a school meets the criteria outlined in (A) but did not have a letter grade or SPS from the year prior, then a letter grade of "U" (unknown) shall be awarded for the 2014-2015 school year.

B. For the 2014-2015 school year only, if the number of nonparticipants (see §4101.B of this bulletin) in grades 3 to 8 English language arts and mathematics is less than or equal to 10 percent of all testers for that school, then the LDE shall include in the calculation of the school or district performance score results from the 2013-2014 Louisiana state assessments in English language arts or mathematics for such students, where available. Where no such 2013-2014 English language arts and/or mathematics results are available for nonparticipants, nonparticipation shall be addressed by using the average assessment index points earned for the specific school, grade level and subject. For students with partial scores in 2014-2015, the LDE shall use the higher of the student's two results: 2013-2014 or 2014-2015; if students with partial scores do not have a score from 2013-2014, then the LDE shall use either the 2014-2015 partial score or the average 2014-2015 assessment index points earned for the specific school, grade level and subject, whichever is higher.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 42:

James D. Garvey, Jr.  
President

1603#025

## DECLARATION OF EMERGENCY

### Board of Elementary and Secondary Education

Bulletin 129—The Recovery School District  
(LAC 28:CXLV.505, 1103, and 1105)

The Board of Elementary and Secondary Education (BESE) has exercised the emergency provision in accordance with R.S. 49:953(B), the Administrative Procedure Act, and R.S. 17.6 to amend LAC 28:CXLV, *Bulletin 129—The Recovery School District*: §505, Return of Schools to Local School Board; §1103, Annual Budget; and §1105, Budget Planning, Preparation, and Schedules. This Declaration of Emergency, effective December 2, 2015, is being extended beyond the initial period of 120 days and will remain in effect until the final Rule becomes effective.

Current policy details a process for the Recovery School District (RSD) to return an RSD charter school to the former local school board when the charter school has earned a school performance score of 54.0 or above for two consecutive school years. The revisions to this policy simplify the process of returning schools to the RSD by clarifying terms and existing processes, deleting unnecessary language, and aligning the policy with yearly accountability timelines for letter grade release and charter renewals. Additional revisions ensure that the policy aligns to the appropriate BESE meetings and budgetary timelines each year. BESE has exercised the emergency provision in the adoption of these policy revisions to ensure the return-of-school timeline will be in effect for eligible RSD schools

considering return for the 2016-2017 school year and to ensure that the budget timeline aligns with the BESE meeting schedule.

**Title 28  
EDUCATION**

**Part CXLV. Bulletin 129—The Recovery School District  
Chapter 5. Failed Schools**

**§505. Return of Schools to Local School Board**

A. Schools transferred to the jurisdiction of RSD shall remain with the RSD for a period of not less than five years.

1. A school that has been under the jurisdiction of the RSD for a minimum of five years as either a direct-run RSD school or a type 5 charter school may be returned to the jurisdiction of its former local school board based upon the RSD's report and recommendation to BESE. The RSD's report shall include the following:

a. the status of the school, the nature of its faculty and administration, the demographics and size of the student body, its organizational and management structure, whether student academic performance has improved, the amount of any improvement, an explanation of why student academic performance has or has not improved, and to what extent performance targets were achieved;

b. the RSD report shall also include a recommendation as to whether the school should:

i. remain within the RSD in the same operational status;

ii. remain within the RSD in a new operational status;

iii. close, with the reasons why it should close; or

iv. return to the jurisdiction of its former local school board, with proposed stipulations and conditions for the return.

**B. Eligible Type 5 Charter Schools**

1. An eligible Type 5 charter school board may elect to transfer from the RSD and return to the jurisdiction of its former local school board as a type 3b charter school. If the charter school board chooses not to transfer to its former local school board, it will automatically remain within the RSD for an additional school year. The charter school board shall have the opportunity to choose to return to its former local school board every year the charter school continues to meet eligibility criteria, in accordance with the procedures outlined below.

2. A non-failing charter school is eligible for transfer from the jurisdiction of the recovery school district provided it meets all of the following.

a. The charter school will have been under the jurisdiction of the recovery school district for a minimum of five year. A charter school shall be considered to have been under the jurisdiction of the RSD for five years when five complete school years have passed since the approval of the transfer to the RSD by BESE under R.S. 17:10.5 or 17:10.7, regardless of changing operators or site codes for the charter school since that time. The decision to transfer will be considered at the earliest during the charter school's fifth year under the jurisdiction of the RSD, with the proposed transfer occurring at the conclusion of that same school year.

b. The charter school has earned for the past two consecutive years a school performance score (SPS) of 54.0 or above. If the academically unacceptable school (AUS) bar is raised above 50.0, then the charter school must have

earned for the past two consecutive years a school performance score that is at least 4.0 points above the AUS bar as established by BESE pursuant to the statewide school and district accountability system. Should the charter school change operators, an SPS of 54.0 or above under the final year of the former operator and an SPS of 54.0 or above under the new operator the next consecutive year shall still meet this requirement.

i. In order to be eligible to choose to transfer from the jurisdiction of the RSD, charter schools comprised entirely of grades below ninth grade shall have two consecutive school performance scores of 54.0 or above based on test data from students actually attending that charter school, rather than test data from a paired school. For charter schools comprised entirely of grades above eighth grade, both consecutive school performance scores of 54.0 or above shall include ACT data for students actually attending the charter school, and at least one of the school performance scores shall include graduation index and graduation rate data for students actually attending the charter school.

c. In order for a charter school in the final year of its current charter contract term to be eligible to choose to transfer from the jurisdiction of the RSD, the charter school must be renewed for the upcoming school year by BESE pursuant to the charter renewal process in Bulletin 126. The charter school board may still take official board action to seek to return to the local school board prior to being renewed by BESE, but final eligibility to return shall be contingent upon BESE approving a renewal for the charter school.

d. The charter school board elects to seek transfer from the RSD and has notified BESE in writing, no later than the deadline set by the RSD each year preceding the effective date of the proposed transfer.

e. The charter school board shall take official board action based on a vote of its membership, at a charter school board meeting in accordance with its by-laws and state open meetings law to provide BESE with written notification of desire to transfer the charter school from the jurisdiction of the RSD to the jurisdiction of its former local school board as a type 3B charter school. Such notice shall state whether the charter school desires to remain an independent local education agency (LEA) or have the former local school board serve as the charter school's LEA.

3. The transfer of a type 5 charter school from the RSD shall become effective on July 1 of the year following BESE's approval of such transfer.

4. Upon receiving notice from an eligible type 5 charter school board of its desire to seek to transfer the charter school to its former local school board by a deadline set each year by the RSD, BESE shall consider the transfer request for approval. BESE may require additional transfer conditions to be completed by the charter school prior to approval of the transfer at a later BESE meeting preceding the proposed transfer.

5. BESE shall only approve a charter school board request to transfer to the charter school to the jurisdiction to the local school board if the following requirements are met:

a. the local school board provides BESE with written notice, in accordance with the deadlines established by the RSD, that official board action has been taken to



accept jurisdiction of the charter school as a type 3B charter school, pending approval of the transfer by BESE; and

b. the charter school board submits a copy of the type 3B charter contract signed by the local school board and the charter operator to BESE prior to approval of the transfer. In order for BESE to grant approval of the transfer, new charter contract, to be effective on the date of transfer (July 1), and any subsequent renewal charter contracts must:

i. be consistent with all state and federal laws governing charter school authorization;

ii. contain academic performance standards for the initial and first renewal term lengths that are equal to or greater than type 5 charter school performance standards as enumerated in BESE Bulletin 126, §519;

iii. comply with any transfer conditions previously specified by BESE;

iv. permit the charter school to remain in its facility or designate an alternative facility for use by the charter school;

v. prohibit the charter school from establishing admissions requirements; and

vi. require any charter school that participated as a type 5 charter school in unified processes common to other public schools located in the same parish or school district boundaries that are critical to providing equity and access to students and families to continue to participate in such processes. At a minimum, the contract shall require the charter school to:

(a). continue to participate in any unified enrollment system and expulsion process established by the RSD for the parish or region where the charter school is located. The charter school shall follow all policies and procedures applicable to type 5 charter schools participating in the enrollment system and expulsion process; and

(b). continue to provide transportation services for students who reside more than one mile from the school.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:10.5(A)(1), R.S. 17:10.7(A)(1), R.S. 17:1990(A)(2), R.S. 17:10.5(C), and R.S. 17:10.7(C).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 37:878 (March 2011), amended LR 38:354 (February 2012), LR 38:1396 (June 2012), LR 39:82 (January 2013), LR 39:1022 (April 2013), LR 39:3255 (December 2013), LR 42:

#### **Chapter 11. Fiscal Management**

##### **§1103. Annual Budget**

A. ....

B. The RSD's budget must be approved by BESE. The RSD shall present a proposed operational budget to BESE for review in June and for approval in August of each year. The RSD direct-operated and charter-operated schools shall budget on a fiscal year basis, July 1 through June 30.

C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:10.5(A)(1), R.S. 17:10.7(A)(1), and R.S. 17:1990(A)(2).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 37:310 (January 2011), amended LR 42:

##### **§1105. Budget Planning, Preparation, and Schedules**

A. The RSD shall present a proposed operational budget to BESE for review in June and for approval in August of each year.

B. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:10.5(A)(1), R.S. 17:10.7(A)(1), and R.S. 17:1990(A)(2).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 37:311 (January 2011), amended LR 42:

James D. Garvey, Jr.  
President

1603#026

#### **DECLARATION OF EMERGENCY**

##### **Board of Elementary and Secondary Education**

Bulletin 133—Scholarship Programs  
Accountability System for Participating Nonpublic Schools  
(LAC 28:CLIII.1305)

The Board of Elementary and Secondary Education (BESE) has exercised the emergency provision in accordance with R.S. 49:953(B), the Administrative Procedure Act, and R.S. 17:6 to amend LAC 28:CLIII, *Bulletin 133—Scholarship Programs*: §1305, Accountability System for Participating Nonpublic Schools. This Declaration of Emergency, effective December 2, 2015, is being extended beyond the initial period of 120 days and will remain in effect until the final Rule becomes effective.

At the December 2013 BESE meeting, the Board approved policies related to the school and district letter grade methodology for the 2014-15 school year to ensure fairness and consistency for schools during the transition to new assessments. This policy revision allows the state superintendent of education to align future scholarship school participation and enrollment decisions to the transition policies for new assessments. BESE has exercised the emergency provision in the adoption of this policy revision in order to expedite the alignment of scholarship school participation and enrollment decisions to the assessment transition policy.

#### **Title 28**

##### **EDUCATION**

##### **Part CLIII. Bulletin 133—Scholarship Programs**

##### **Chapter 13. Criteria for School Participation in the Student Scholarships for Educational Excellence Program**

##### **§1305. Accountability System for Participating Nonpublic Schools**

A. - E.2.b. ...

c. The state superintendent may waive either or both of the above provisions for a given school if the school received a score higher than an equivalent school performance score correlating to a letter grade of an "F"

according to the school performance score formula outlined in *Bulletin III—The Louisiana School, District, and State Accountability System*.

3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 and R.S. 17:4025.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 39:83 (January 2013), amended LR 42:

James D. Garvey, Jr.  
President

1603#027

## DECLARATION OF EMERGENCY

### Department of Health and Hospitals Board of Pharmacy

Compounding for Office Use for Veterinarians  
(LAC 46:LIII.2535)

The Louisiana Board of Pharmacy is exercising the emergency provisions of the Administrative Procedure Act, specifically at R.S. 49:953(B), to amend its rules governing the compounding of drugs by pharmacies, to restore the capability of pharmacies to compound preparations intended for administration by veterinarians without the necessity of a patient-specific prescription.

Pursuant to the adoption of the Drug Quality and Security Act (DQSA) by the U.S. Congress in November 2013, the board amended its rules to remove the capability of pharmacies to compound drug preparations intended for administration by practitioners without the necessity of a patient-specific prescription. With the further clarification from the federal Food and Drug Administration that the DQSA only applied to compounding of drugs for human use, and further, did not apply to the compounding of drugs for veterinary use, in combination with requests from veterinarians for the restoration of the authority for pharmacies to compound drugs for office use by veterinarians, the board has determined it appropriate to restore the authority for pharmacies to compound drugs for office use by veterinarians.

The board now seeks to amend its rules to authorize pharmacies to compound drugs for office use for veterinarians only and not for human use. In their petition to the board, the veterinarians presented examples of medications that are needed for emergency use in the veterinarian's office. Since the time required for promulgation of the Rule change is of such duration that a veterinarian may not be able to obtain a compounded medication necessary to save an animal's life, the board proposes to enable the temporary authority for pharmacies to compound medications for office use by veterinarians through an Emergency Rule.

The initial Emergency Rule was made effective June 1, 2015. The board published its Notice of Intent and

conducted a public hearing on August 26, 2015 to receive comments and testimony on the proposed Rule. The board considered those comments during their November 18, 2015 meeting and determined additional language was necessary to inform pharmacists of an apparent conflict between federal and state rules, and that state permission did not provide immunity from federal enforcement action. The board approved that additional language during its February 24, 2016 meeting and directed the completion of the rulemaking process, as well as the posting of this new Emergency Rule in the interim.

The board has determined this Emergency Rule is necessary to prevent imminent peril to the public health, safety, and welfare. The Declaration of Emergency is effective February 24, 2016, and shall remain in effect for the maximum time period allowed under the Administrative Procedure Act or until adoption of the final Rule, whichever shall first occur.

## Title 46 PROFESSIONAL AND OCCUPATIONAL STANDARDS

### Part LIII. Pharmacists

#### Chapter 25. Prescriptions, Drugs, and Devices

##### Subchapter C. Compounding of Drugs

##### §2535. General Standards

A. Compounding Practices. Compounded medications may be prepared using prescription medications, over-the-counter medications, chemicals, compounds, or other components.

1. ...

2. All compounding shall be accomplished utilizing accepted pharmacy techniques, practices, and equipment, as well as the Federal Food, Drug and Cosmetic Act of 1938 as subsequently amended, most recently in November 2013 (FDCA), the 2016 edition of Title 21 of the *Code of Federal Regulations* (CFR), and all relevant chapters of the 2014 edition of the *United States Pharmacopeia-National Formulary* (USP 37-NF 32).

A.2.a. - D. ...

E. Veterinarian Administered Compounds, also referred to as Pharmacy-Generated Drugs

1. Upon receipt of a valid non-patient-specific medical order from a licensed veterinarian, the pharmacy may compound a preparation intended for administration to an animal patient by the veterinarian.

2. These preparations may not be distributed to any other third party by the pharmacy, nor may these preparations be further re-sold or distributed by the veterinarian ordering the preparation from the pharmacy.

3. This authorization is primarily intended to facilitate the preparation of medications needed for emergency use in a veterinary office practice. Given the limited application of this authorization, which allows these products to be prepared using less rigorous standards applicable to compounding as opposed to the more rigorous standards applicable to manufacturing processes, the compounding pharmacy preparing these products shall be limited in the amount of such products they can prepare.

a. No Louisiana-licensed pharmacy may distribute any amount of practitioner administered compounds in excess of 5 percent of the total amount of drug products dispensed and/or distributed from their pharmacy.

b. The 5 percent limitation shall be calculated on a monthly basis and shall reference the number of dosage units.

c. For those Louisiana-licensed pharmacies located outside Louisiana, the total amount distributed and/or dispensed shall reference the pharmacy's total business within the state of Louisiana.

4. The provisions of this Subsection E notwithstanding, pharmacists intending to engage in the compounding of veterinary preparations pursuant to non-patient-specific medical orders from veterinarians should be aware that federal law or rule may not permit such activity by a licensed pharmacy, and further, such pharmacists should be aware that the board's rules cannot legitimize an activity that is not permitted under federal law or rule, and further, such pharmacists should be aware that while this activity is permitted by the board, pharmacists engaging in this activity remain subject to the full force and effect of federal law enforcement.

F. Compounding Commercial Products not Available. A pharmacy may prepare a copy of a commercial product when that product is not available as evidenced by either of the following:

1. products appearing on a website maintained by the federal Food and Drug Administration (FDA) and/or the American Society of Health-System Pharmacists (ASHP);

2. products temporarily unavailable from manufacturers, as documented by invoice or other communication from the distributor or manufacturer.

G. Labeling of Compounded Preparations

1. For patient-specific compounded preparations, the labeling requirements of R.S. 37:1225, or its successor, as well as §2527 of this Chapter, or its successor shall apply.

2. For veterinarian-administered compounds, the label shall contain, at a minimum, the following data elements:

a. pharmacy's name, address, and telephone number;

b. veterinarian's name;

c. name of preparation;

d. strength and concentration;

e. lot number;

f. beyond use date;

g. special storage requirements, if applicable;

h. identification number assigned by the pharmacy; and

i. name or initials of pharmacist responsible for final check of the preparation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), effective January 1, 1989, amended LR 23:1316 (October 1997), LR 29:2105 (October 2003), effective January 1, 2004, LR 41:97 (January 2015), LR 42:

Malcolm J. Broussard  
Executive Director

1603#016

## DECLARATION OF EMERGENCY

### Department of Health and Hospitals Bureau of Health Services Financing and Office of Aging and Adult Services

Home and Community-Based Services Waivers  
Community Choices Waiver  
Electronic Visit Verification  
(LAC 50:XX1.9305)

The Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services adopt LAC 50:XX1.9305 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, through collaborative efforts, provide enhanced long-term services and supports to individuals who are elderly or have a disability through the Community Choices Waiver program.

The Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services promulgated an Emergency Rule which amended the provisions governing the Community Choices Waiver in order to adopt requirements which mandate that providers of personal assistant services must utilize the electronic visit verification (EVV) system designated by the department for automated scheduling, time and attendance tracking, and billing for certain home and community-based services (*Louisiana Register*, Volume 41, Number 3). This Rule is being promulgated to continue the provisions of the April 1, 2015 Emergency Rule. This action is being taken to promote the health and welfare of Community Choices Waiver participants by assuring that they receive the services they need and to ensure that these services are rendered in an efficient and cost-effective manner.

Effective March 29, 2016, the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services amend the provisions governing the Community Choices Waiver to establish requirements for the use of an EVV system.

#### Title 50

#### PUBLIC HEALTH—MEDICAL ASSISTANCE

#### Part XXI. Home and Community Based Services Waivers

#### Subpart 7. Community Choices Waiver

#### Chapter 93. Provider Responsibilities

#### §9305. Electronic Visit Verification

A. Effective for dates of service on or after April 1, 2015, Community Choices Waiver providers shall use the electronic visit verification (EVV) system designated by the department for automated scheduling, time and attendance tracking, and billing for certain home and community-based services.

B. Reimbursement shall only be made to providers with documented use of the EVV system. The services that require use of the EVV system will be published in the Community Choices Waiver provider manual.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 42:

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), if it is determined that submission to CMS for review and approval is required.

Interested persons may submit written comments to Jen Steele, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030 or by email to MedicaidPolicy@la.gov. Ms. Steele is responsible for responding to all inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Rebekah E. Gee MD, MPH  
Secretary

1603#055

## **DECLARATION OF EMERGENCY**

### **Department of Health and Hospitals Bureau of Health Services Financing**

#### **Intermediate Care Facilities for Persons with Intellectual Disabilities—Supplemental Payments (LAC 50:VII.32917)**

The Department of Health and Hospitals, Bureau of Health Services Financing adopts LAC 50:VII.32917 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals (DHH), Bureau of Health Services Financing provides Medicaid reimbursement to non-state intermediate care facilities for persons with intellectual disabilities (ICFs/ID) for services rendered to Medicaid recipients.

The department promulgated an Emergency Rule which amended the provisions governing the reimbursement methodology for ICFs/ID in order to adopt provisions to establish supplemental Medicaid payments for services provided to Medicaid recipients residing in privately-owned facilities that enter into a cooperative endeavor agreement with the department (*Louisiana Register*, Volume 41, Number 8). This Emergency Rule is being promulgated to continue the provisions of the August 1, 2015 Emergency Rule. This action is being taken to secure new federal funding, and to promote the health and welfare of Medicaid recipients by ensuring sufficient provider participation.

Effective March 30, 2016, the Department of Health and Hospitals, Bureau of Health Services Financing amends the

provisions governing the reimbursement methodology for non-state ICFs/ID to establish supplemental Medicaid payments.

## **Title 50**

### **PUBLIC HEALTH—MEDICAL ASSISTANCE**

#### **Part VII. Long Term Care**

#### **Subpart 3. Intermediate Care Facilities for Persons with Intellectual Disabilities**

##### **Chapter 329. Reimbursement Methodology**

##### **Subchapter A. Non-State Facilities**

##### **§32917. Supplemental Payments**

A. Effective for dates of service on or after August 1, 2015, monthly supplemental payments shall be made to qualifying privately-owned intermediate care facilities for persons with intellectual disabilities.

B. In order to qualify for the supplemental payment, the private entity must enter into a cooperative endeavor agreement with the department to lease state-owned ICF/ID beds.

C. Supplemental payments for services rendered to Medicaid recipients shall not exceed the facility's upper payment limit (UPL) pursuant to 42 CFR 447.272. The UPL will be based on the Centers for Medicare and Medicaid Services' approved ICF transitional rate of \$329.26 including provider fee.

D. The supplemental payment will be the difference between the actual Medicaid payment and what would have been paid if the ICF/ID was paid up to the UPL amount.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 42:

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), if it is determined that submission to CMS for review and approval is required.

Interested persons may submit written comments to Jen Steele, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030 or by email to MedicaidPolicy@la.gov. Ms. Steele is responsible for responding to inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Rebekah E. Gee MD, MPH  
Secretary

1603#056

## **DECLARATION OF EMERGENCY**

### **Department of Health and Hospitals Bureau of Health Services Financing**

Outpatient Hospital Services  
Public-Private Partnerships  
Reimbursement Methodology  
(LAC 50:V.6703)

The Department of Health and Hospitals, Bureau of Health Services Financing amends LAC 50:V.6703 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This

Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Bureau of Health Services Financing promulgated an Emergency Rule which amended the provisions governing outpatient hospital services to establish supplemental Medicaid payments to non-state owned hospitals in order to encourage them to take over the operation and management of state-owned hospitals that have terminated or reduced services (*Louisiana Register*, Volume 38, Number 11). Participating non-state owned hospitals shall enter into a cooperative endeavor agreement with the department to support this public-private partnership initiative. The department promulgated an Emergency Rule which amended the provisions of the November 1, 2012 Emergency Rule to revise the reimbursement methodology in order to correct the federal citation (*Louisiana Register*, Volume 39, Number 3).

The department promulgated an Emergency Rule which amended the provisions governing reimbursement for Medicaid payments for outpatient services provided by non-state owned major teaching hospitals participating in public-private partnerships which assume the provision of services that were previously delivered and terminated or reduced by a state owned and operated facility (*Louisiana Register*, Volume 38, Number 4). This Emergency Rule is being promulgated to continue the provisions of the April 15, 2013 Emergency Rule. This action is being taken to promote the health and welfare of Medicaid recipients by maintaining recipient access to much needed hospital services.

Effective April 8, 2016, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing Medicaid payments for outpatient hospital services provided by non-state owned hospitals participating in public-private partnerships.

#### **Title 50**

### **PUBLIC HEALTH—MEDICAL ASSISTANCE**

#### **Part V. Hospital Services**

#### **Subpart 5. Outpatient Hospital Services**

#### **Chapter 67. Public-Private Partnerships**

#### **§6703. Reimbursement Methodology**

A. Payments to qualifying hospitals shall be made on a quarterly basis in accordance with 42 CFR 447.321.

B. Effective for dates of service on or after April 15, 2013, a major teaching hospital that enters into a cooperative endeavor agreement with the Department of Health and Hospitals to provide acute care hospital services to Medicaid and uninsured patients, and which assumes providing services that were previously delivered and terminated or reduced by a state owned and operated facility shall be reimbursed as follows.

1. Outpatient Surgery. The reimbursement amount for outpatient hospital surgery services shall be an interim payment equal to the Medicaid fee schedule amount on file for each service, and a final reimbursement amount of 95 percent of allowable Medicaid cost.

2. Clinic Services. The reimbursement amount for outpatient clinic services shall be an interim payment equal to the Medicaid fee schedule amount on file for each service,

and a final reimbursement amount of 95 percent of allowable Medicaid cost.

3. Laboratory Services. The reimbursement amount for outpatient clinical diagnostic laboratory services shall be the Medicaid fee schedule amount on file for each service.

4. Rehabilitative Services. The reimbursement amount for outpatient clinic services shall be an interim payment equal to the Medicaid fee schedule amount on file for each service, and a final reimbursement amount of 95 percent of allowable Medicaid cost.

5. Other Outpatient Hospital Services. The reimbursement amount for outpatient hospital services other than clinical diagnostic laboratory services, outpatient surgeries, rehabilitation services and outpatient hospital facility fees shall be an interim payment equal to 95 percent of allowable Medicaid cost.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 42:

Interested persons may submit written comments to Jen Steele, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030 or by email to MedicaidPolicy@la.gov. Ms. Steele is responsible for responding to inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Rebekah E. Gee MD, MPH  
Secretary

1603#057

### **DECLARATION OF EMERGENCY**

#### **Department of Health and Hospitals Bureau of Health Services Financing and Office of Aging and Adult Services**

Personal Care Services—Long-Term  
Standards for Participation  
Electronic Visit Verification  
(LAC 50:XV.12909)

The Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services amend LAC 50:XV.12909 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, through collaborative efforts, provide enhanced long-term personal care services and supports to individuals with functional impairments.

The department promulgated an Emergency Rule which amended the provisions governing long-term personal care services (LT-PCS) in order to adopt requirements which

mandate that LT-PCS providers must utilize the electronic visit verification (EVV) system designated by the department for automated scheduling, time and attendance tracking, and billing for long-term personal care services (*Louisiana Register*, Volume 41, Number 3). This Emergency Rule is being promulgated to continue the provisions of the April 1, 2015 Emergency Rule.

This action is being taken to promote the health and welfare of persons with a functional impairment by assuring that they receive the services they need, and to ensure that these services are rendered in an efficient and cost-effective manner.

Effective March 29, 2016, the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services amend the provisions governing long-term personal care services to establish requirements for the use of an EVV system.

#### **Title 50**

### **PUBLIC HEALTH—MEDICAL ASSISTANCE**

#### **Part XV. Services for Special Populations**

##### **Subpart 9. Personal Care Services**

#### **Chapter 129. Long Term Care**

##### **§12909. Standards for Participation**

A. - D.2....

E. Electronic Visit Verification. Effective for dates of service on or after April, 1, 2015, providers of long-term personal care services shall use the electronic visit verification (EVV) system designated by the department for automated scheduling, time and attendance tracking, and billing for certain home and community-based services.

1. Reimbursement shall only be made to providers with documented use of the EVV system.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:912 (June 2003), amended LR 30:2832 (December 2004), amended by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 34:2579 (December 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 35:2451 (November 2009), LR 39:2508 (September 2013), LR 42:

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), if it is determined that submission to CMS for review and approval is required.

Interested persons may submit written comments to Jen Steele, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030 or by email to MedicaidPolicy@la.gov. Ms. Steele is responsible for responding to inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Rebekah E. Gee MD, MPH  
Secretary

### **DECLARATION OF EMERGENCY**

#### **Department of Health and Hospitals Office of Public Health**

##### **Minimum Disinfectant Residual Levels in Public Water Systems**

(LAC 51:XII.311, 355, 357, 361, 363, 367, 903, 1102, 1105, 1113, 1117, 1119, 1125, 1133, 1135, 1139 and 1503)

The state health officer, acting through the Department of Health and Hospitals, Office of Public Health (DHH-OPH), pursuant to the rulemaking authority granted by R.S. 40:4(A)(8) and (13) and in accordance with the intent of Act 573 of 2014, hereby adopts the following Emergency Rule to prevent an imminent peril to the public health and safety. This Rule is being promulgated in accordance with the Administrative Procedure Act (R.S. 49:950 et seq.).

The state health officer, through DHH-OPH, finds it necessary to promulgate an Emergency Rule effective February 26, 2016. This Emergency Rule increases the minimum disinfection residual levels that are required for public water systems. Among other items addressed as well, the Rule increases the number of residual measurements taken monthly by 25 percent. The Rule clarifies that daily residual measurements are required at the point of maximum residence time in the distribution system and records of chlorine residual measurements taken in the distribution system, besides from the treatment plant(s) itself, shall be recorded and retained by the public water system as required by the national primary drinking water regulations (as this term is defined in Part XII). This Rule is based upon scientific data and recommendations from the federal Centers for Disease Control and Prevention (CDC) relative to the control of the *Naegleria fowleri* (brain-eating amoeba) parasite which has, thus far, been found in seven public water systems within Louisiana. Unless rescinded or terminated earlier, this Emergency Rule shall remain in effect for the maximum period authorized under state law or on the date that a final Rule on this same subject matter has been promulgated under regular rulemaking.

#### **Title 51**

### **PUBLIC HEALTH—SANITARY CODE**

#### **Part XII. Water Supplies**

#### **Chapter 3. Water Quality Standards**

##### **§311. Records**

**[formerly paragraph 12:003-2]**

A. Complete daily records of the operation of a public water system, including reports of laboratory control tests and any chemical test results required for compliance determination, shall be kept and retained as prescribed in the national primary drinking water regulations on forms approved by the state health officer. When specifically requested by the state health officer or required by other requirements of this Part, copies of these records shall be provided to the office designated by the state health officer within 10 days following the end of each calendar month.

1603#058

Additionally, all such records shall be made available for review during inspections/sanitary surveys performed by the state health officer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(8) and 40:5(2)(3)(5)(6)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1321 (June 2002), amended LR 30:1195 (June 2004), LR 42:

**§355. Mandatory Disinfection**  
**[formerly paragraph 12:021-1]**

A. Routine, continuous disinfection is required of all public water systems.

1. Where a continuous chloramination (i.e., chlorine with ammonia addition) method is used, water being delivered to the distribution system shall contain a minimum concentration of 0.5 mg/l of chloramine residual (measured as total chlorine).

2. Where a continuous free chlorination method is used, water being delivered to the distribution system shall contain a minimum concentration of free chlorine residual in accordance with the following table.

Table 355.A.2	
pH Value	Free Chlorine Residual
up to 7.0	0.5 mg/l
7.0 to 8.0	0.6 mg/l
8.0 to 9.0	0.8 mg/l
over 9.0	1.0 mg/l

a. Table 355.A.2 does not apply to systems using chloramines.

b. pH values shall be measured in accordance with the methods set forth in §1105.D of this Part.

B. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(8)(13) and R.S. 40:5(2)(3)(5)(6)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1326 (June 2002), amended LR 28:2514 (December 2002), LR 35:1240 (July 2009), LR 38:2376 (September 2012), LR 42:

**§357. Minimum Disinfection Residuals**  
**[formerly paragraph 12:021-2]**

A. Disinfection equipment shall be operated to maintain disinfectant residuals in each finished water storage tank and at all points throughout the distribution system at all times in accordance with the following minimum levels:

1. a free chlorine residual of 0.5 mg/l; or  
2. a chloramine residual (measured as total chlorine) of 0.5 mg/l for those systems that feed ammonia.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(8)(13) and R.S. 40:5(2)(3)(5)(6)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1327 (June 2002), amended LR 42:

**§361. Implementation of Disinfection Requirements**

A. A public water system not holding a disinfection variance on November 6, 2013 shall comply with the requirements of §355.A, §357, §367.C, and §367.G of this Part on the later of:

1. February 1, 2014; or  
2. the expiration date of any additional time for compliance beyond February 1, 2014 granted by the state health officer. A request for additional time may be

submitted in writing prior to February 1, 2014 only, and shall provide detailed justification and rationale for the additional time requested. The state health officer may grant such additional time if significant infrastructure improvements are required to achieve compliance with said requirements.

B. A public water system holding a disinfection variance on November 6, 2013 shall comply with one of the following options by February 1, 2014:

1. implement continuous disinfection that complies with the requirements of §355.A, §357, §367.C, and §367.G of this Part;

2. request additional time for complying with the requirements of §355.A, §357, §367.C, and §367.G of this Part by submitting a written request, if significant infrastructure improvements are required to achieve compliance therewith or extraordinary circumstances exist with regard to the introduction of disinfection to the system. Such written request shall provide detailed justification and rationale for the additional time requested;

3. (This option shall be available only if the public water system's potable water distribution piping is utilized for onsite industrial processes.) notify the state health officer in writing that in lieu of implementing continuous disinfection, the PWS has provided, and will thereafter provide on a quarterly basis, notification to all system users, in a manner compliant with §1907 of this Part, that the system does not disinfect its water. The notification shall state that because the water is not disinfected, the water quality is unknown in regard to the *Naegleria fowleri* amoeba. A public water system selecting this option must sign an acknowledgement form, to be developed by the state health officer, stating that the public water system understands the risks presented by the lack of disinfection and that the public water system maintains responsibility for ensuring the safety of its water for end users; or

4. (This option shall be available only if the public water system's potable water distribution piping is utilized for onsite industrial processes.) request approval of an alternate plan providing water quality and public health protection equivalent to the requirements of §355.A and §357 of this Part. The state health officer may approve such a plan only if it is supported by peer-reviewed, generally accepted research and science.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(8)(13) and R.S. 40:5(2)(3)(5)(6)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 42:

**§363. Revocation of Variances**  
**[formerly paragraph 12:021-5]**

A. A variance from mandatory disinfection shall be revoked when a public water system has a bacteriological MCL violation. When a variance is revoked, the system shall install mandatory continuous disinfection as stated in §355 of this Part within the times specified in a compliance schedule submitted to and approved by the state health officer. Such schedule shall be submitted within 10 days of receipt of notice of revocation.

B. Except for variances held by qualifying public water systems that comply with §361.B.3 of this Part or receive approval of an alternate plan under §361.B.4 of this Part, any variance concerning the mandatory disinfection

requirements of §355 and/or §357 of this Part held by a public water system as of November 6, 2013 shall be automatically revoked on the later of:

1. February 1, 2014;
2. the expiration date of any additional time for compliance granted by the state health officer under §361.B.2 of this Part; or
3. the denial of a request for approval of an alternate plan submitted under §361.B.4 of this Part.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(8)(13) and R.S. 40:5(2)(3)(5)(6)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1327 (June 2002), amended LR 42:

**§367. Disinfectant Residual Monitoring and Record Keeping**  
[formerly paragraph 12:021-7]

A. Disinfectant Residual Monitoring in Treatment Plant. A public water system (PWS) shall measure the residual disinfectant concentration in water being delivered to the distribution system at least once per day.

B. Disinfectant Residual Monitoring in Distribution System. A PWS shall measure the residual disinfectant concentration within the distribution system:

1. by sampling at the same points in the distribution system and at the same times that samples for total coliforms are required to be collected by the PWS under this Part;
2. by sampling at an additional number of sites calculated by multiplying 0.25 times the number of total coliform samples the PWS is required under this Part to take on a monthly or quarterly basis, rounding any mixed (fractional) number product up to the next whole number. These additional residual monitoring samples shall be taken from sites in low flow areas and extremities in the distribution system at regular time intervals throughout the applicable monthly or quarterly sampling period; and
3. by sampling at the site that represents the maximum residence time (MRT) in the distribution system at least once per day.

C. A PWS shall increase sampling to not less than daily at any site in the distribution system that has a measured disinfectant residual concentration of less than 0.5 mg/l free chlorine or 0.5 mg/l chloramine residual (measured as total chlorine) until such disinfectant residual concentration is achieved at such site.

D. The records of the measurement and sampling required under Subsections A and B of this Section shall be maintained on forms approved by the state health officer and shall be retained as prescribed in the national primary drinking water regulations, and shall be made available for review upon request by the state health officer.

E. Each PWS shall submit a written monitoring plan to the state health officer for review and approval. The monitoring plan shall be on a form approved by the state health officer and shall include all the total coliform and disinfectant residual monitoring sites required under this Section and §903.A of this Part. Each PWS shall also submit a map of the distribution system depicting all total coliform and disinfectant residual monitoring sites required under this Section. The sites shall be identified along with a 911 street address (if there is no 911 street address, then the latitude/longitude coordinates shall be provided). A PWS in

existence as of November 6, 2013 shall submit such a monitoring plan no later than January 1, 2014.

F. Chlorine residuals shall be measured in accordance with the analytical methods set forth in §1105.C of this Part.

G. Where a continuous chloramination (i.e., chlorine with ammonia addition) method is used, a nitrification control plan shall be developed and submitted to the state health officer. A PWS in existence as of November 6, 2013 shall submit such a nitrification control plan no later than March 1, 2014.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(8)(13) and 40:5(2)(3)(5)(6)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1327 (June 2002), amended LR 30:1195 (June 2004), LR 42:

**Chapter 9. Louisiana Total Coliform Rule**  
[formerly Appendix C]

**§903. Coliform Routine Compliance Monitoring**  
[formerly Coliform Routine Compliance Monitoring of Appendix C]

A. Public water systems shall collect routine total coliform samples at sites which are representative of water throughout the distribution system in accordance with a written monitoring plan approved by the state health officer. Each public water system (PWS) shall submit a written monitoring plan on a form approved by the state health officer. The monitoring plan shall include a minimum number of point of collection (POC) monitoring sites calculated by multiplying 1.5 times the minimum number of samples required to be routinely collected in accordance with Subsections C and D of this Section, rounding any mixed (fractional) number product up to the next whole number. The monitoring plan shall include a map of the system with each POC sampling site identified along with a 911 street address (if there is no 911 street address, then the latitude/longitude coordinates shall be provided). In accordance with requirements of Subsection E of this Section, the plan shall also indicate how the PWS will alternate routine sampling between all of the approved POC sampling sites.

B. - D. ...

E. Unless the state health officer specifies otherwise, the public water supply shall collect routine samples at regular time intervals throughout the month and shall alternate routine sampling between all of the approved POC sites. Routine samples shall not be collected from the same POC more than once per month.

F. - G. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(8)(13) and 40:5(2)(3)(5)(6)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1333 (June 2002), amended LR 42:

**Chapter 11. Surface Water Treatment Rule**  
**Subchapter A. General Requirements and Definitions**  
**§1102. Relationship with this Part**

A. In those instances where the requirements of this Chapter are stricter than or conflict with the requirements of this Part generally, a public water system utilizing surface water or ground water under the direct influence of surface water (GWUDISW) shall comply with the requirements of this Chapter.



AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(8)(13) and R.S. 40:5(2)(3)(5)(6)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 42:

#### §1105. Analytical Requirements

A. Analysis for total coliform, fecal coliform, or HPC which may be required under this Chapter shall be conducted by a laboratory certified by DHH to do such

analysis. Until laboratory certification criteria are developed, laboratories certified for total coliform analysis by DHH are deemed certified for fecal coliform and HPC analysis.

B. - B.3. ...

C. Public water systems shall conduct analysis for applicable residual disinfectant concentrations in accordance with one of the analytical methods in Table 1.

Table 1				
Residual	Methodology	Standard Methods <sup>1</sup>	ASTM Methods <sup>2</sup>	Other Methods
Free Chlorine	Amperometric Titration	4500-Cl D, 4500-Cl D-00	D 1253-03	
	DPD Ferrous Titrimetric	4500-Cl F, 4500-Cl F-00		
	DPD Colorimetric	4500-Cl G, 4500-Cl G-00		
	Syringaldazine (FACTS)	4500-Cl H, 4500-Cl H-00		
	On-line Chlorine Analyzer			EPA 334.0 <sup>3</sup>
	Amperometric Sensor			ChloroSense <sup>4</sup>
Total Chlorine	Amperometric Titration	4500-Cl D, 4500-Cl D-00	D 1253-03	
	Amperometric Titration (low level measurement)	4500-Cl E, 4500-Cl E-00		
	DPD Ferrous Titrimetric	4500-Cl F, 4500-Cl F-00		
	DPD Colorimetric	4500-Cl G, 4500-Cl G-00		
	Iodometric Electrode	4500-Cl I, 4500-Cl I-00		
	On-line Chlorine Analyzer			EPA 334.0 <sup>3</sup>
	Amperometric Sensor			ChloroSense <sup>4</sup>
Chlorine Dioxide	Amperometric Titration	4500-ClO <sub>2</sub> C		
	DPD Method	4500-ClO <sub>2</sub> D		
	Amperometric Titration II	4500-ClO <sub>2</sub> E, 4500-ClO <sub>2</sub> E-00		
	Lissamine Green Spectrophotometric			EPA 327.0 Rev 1.1 <sup>5</sup>
Ozone	Indigo Method	4500-O, B, 4500-O, B-97		

<sup>1</sup>. All the listed methods are contained in the 18th, 19th, 20th, 21st, and 22nd Editions of *Standard Methods for the Examination of Water and Wastewater*; the cited methods published in any of these editions may be used.

<sup>2</sup>. *Annual Book of ASTM Standards*, Vol. 11.01, 2004; ASTM International; any year containing the cited version of the method may be used. Copies of this method may be obtained from ASTM International, 100 Barr Harbor Drive, P.O. Box C700 West Conshohocken, PA 19428-2959.

<sup>3</sup>. EPA Method 334.0. "Determination of Residual Chlorine in Drinking Water Using an On-line Chlorine Analyzer," August 2009. EPA 815-B-09-013. Available at [http://epa.gov/safewater/methods/analyticalmethods\\_ogwd\\_w.html](http://epa.gov/safewater/methods/analyticalmethods_ogwd_w.html).

<sup>4</sup>. ChloroSense. "Measurement of Free and Total Chlorine in Drinking Water by Palintest ChloroSense," September 2009. Available at <http://www.nemi.gov> or from Palintest Ltd, 21 Kenton Lands Road, PO Box 18395, Erlanger, KY 41018.

<sup>5</sup>. EPA Method 327.0, Revision 1.1, "Determination of Chlorine Dioxide and Chlorite Ion in Drinking Water Using Lissamine Green B and Horseradish Peroxidase with Detection by Visible Spectrophotometry," USEPA, May 2005, EPA 815-R-05-008. Available online at <http://www.epa.gov/safewater/methods/sourcalt.html>.

D. - E.1. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(8)(13) and 40:5(5)(6)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1337 (June 2002), amended LR 28:2516 (December 2002), LR 42:

#### Subchapter B. Treatment Technique Requirements and Performance Standards

##### §1113. Treatment Technique Requirements

A. - A.3. ...

4. the total reductions to be required by the DHH may be higher and are subject to the source water concentration of *Giardia lamblia*, viruses, and *Cryptosporidium*;

5. the residual disinfectant concentration in the water delivered to the distribution system is not less than 0.5 mg/l free chlorine or 0.5 mg/l total chlorine for more than 4 hours in any 24-hour period; and

6. the residual disinfectant concentration is not less than 0.5 mg/l free chlorine or 0.5 mg/l total chlorine in more than 5 percent of the samples collected each month from the distribution system for any two consecutive months.

B. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(8) and R.S. 40:5(2)(3)(5)(6)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1340 (June 2002), amended LR 28:2518 (December 2002), LR 35:1241 (July 2009), LR 42:

##### §1117. Non-Filtering Systems

A. - C.1. ...

a. A system shall demonstrate compliance with the inactivation requirements based on conditions occurring during peak hourly flow. Residual disinfectant measurements shall be taken hourly. Continuous disinfectant residual monitors are acceptable in place of hourly samples provided the accuracy of the disinfectant measurements are validated at least weekly in accord with §1109.B or C, as applicable, of this Chapter. If there is a failure in the continuous disinfectant residual monitoring equipment, the system shall collect and analyze a grab sample every hour in lieu of continuous monitoring.

b. ...

2. To avoid filtration, the system shall maintain minimum disinfectant residual concentrations in accordance with the requirements of §355 and §357 of this Part. Performance standards shall be as presented in §1119.B and C of this Chapter.

3. - 3.a. ...

b. an automatic shut off of delivery of water to the distribution system when the disinfectant residual level drops below 0.5 mg/l free chlorine residual or 0.5 mg/l chloramine residual (measured as total chlorine).

D. - D.7. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(8)(13) and 40:5(2)(3)(5)(6)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1341 (June 2002), amended LR 28:2520 (December 2002), LR 35:1242 (July 2009), LR 42:

#### **§1119. Disinfection Performance Standards**

A. - A.5. ...

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B. Except as otherwise specified by this Section and Chapter, disinfection treatment shall comply with the minimum standards and requirements set forth in §355.A and §357 of this Part.

C. - C.4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(8)(13) and 40:5(2)(3)(5)(6)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1341 (June 2002), amended LR 28:2522 (December 2002), LR 35:1242 (July 2009), LR 42:

#### **Subchapter C. Monitoring Requirements**

##### **§1125. Disinfection Monitoring**

A. ...

B. Disinfectant Residual Monitoring at Plant. To determine compliance with the performance standards specified in §§1115 or 1119 of this Chapter, the disinfectant residual concentrations of the water being delivered to the distribution system shall be measured and recorded continuously. The accuracy of disinfectant measurements obtained from continuous disinfectant monitors shall be validated at least weekly in accord with §1109.B or C, as applicable, of this Chapter. If there is a failure of continuous disinfectant residual monitoring equipment, grab sampling every two hours shall be conducted in lieu of continuous monitoring, but for no more than five working days following the failure of the equipment. Failure to have the continuous monitoring equipment replaced or repaired and put back into continuous service following the five working days allowed herein shall be deemed to constitute a violation of this Chapter. Systems shall maintain the results of disinfectant residual monitoring for at least 10 years.

C. Small System Disinfectant Residual Monitoring at Plant. Suppliers serving fewer than 3,300 people may collect and analyze grab samples of the water being delivered to the distribution system for disinfectant residual determination each day in lieu of the continuous monitoring, in accordance with Table 4 of this Chapter, provided that any time the residual disinfectant falls below 0.5 mg/l free chlorine or 0.5 mg/l chloramine residual (measured as total chlorine), the supplier shall take a grab sample every two hours until the residual concentrations are equal to or greater than 0.5 mg/l free chlorine or 0.5 mg/l chloramine residual (measured as total chlorine).

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D. Disinfectant Residual Monitoring in Distribution System. The residual disinfectant concentrations in the distribution system shall be measured, recorded, and maintained in accordance with §367.B, C, D and E of this Part. A monitoring plan shall be developed, submitted, reviewed, and approved in accordance with §367.E of this Part.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(8)(13) and R.S. 40:5(2)(3)(5)(6)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1342 (June 2002), amended LR 28:2523 (December 2002), LR 35:1243 (July 2009), LR 42:

#### **Subchapter E. Reporting**

##### **§1133. DHH Notification**

A. - A.4. ...

5. the disinfectant residual measured from any sample collected from water being delivered to the distribution system is found to be less than 0.5 mg/l free chlorine or 0.5 mg/l chloramine residual (measured as total chlorine). The notification shall indicate whether the disinfectant residual was restored to at least 0.5 mg/l free chlorine or 0.5 mg/l chloramine residual (measured as total chlorine) within 4 hours;

A.6. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(8)(13) and 40:5(2)(3)(5)(6)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:2525 (December 2002), amended LR 35:1244 (July 2009), LR 42:

##### **§1135. Monthly Report**

A. - B.5. ...

C. Disinfection Monitoring Results. The monthly report shall include the following disinfection monitoring results.

1. The date and duration of each instance when the disinfectant residual in water supplied to the distribution system is less than 0.5 mg/l free chlorine or 0.5 mg/l chloramine residual (measured as total chlorine) and when the DHH was notified of the occurrence.

2. The following information on samples taken from the distribution system:

a. the number of samples where the disinfectant residual is measured; and

b. the number of measurements where the disinfectant residual is less than 0.5 mg/l free chlorine or 0.5 mg/l chloramine residual (measured as total chlorine).

D. - F.2.a. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(8)(13) and R.S. 40:5(2)(3)(5)(6)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:2526 (December 2002), amended LR 35:1244 (July 2009), LR 42:

#### **Subchapter F. Public Notification**

##### **§1139. Consumer Notification**

A. Treatment Technique/Performance Standard Violations. The supplier shall notify persons served by the system whenever there is a failure to comply with the treatment technique requirements specified in §§1113 or 1141, or a failure to comply with the performance standards specified in §§1115, 1117, 1119.A or 1119.C of this Chapter.

The notification shall be given in a manner approved by the DHH, and shall include the following mandatory language.

A.1. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(8)(13) and R.S. 40:5(2)(3)(5)(6)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:2527 (December 2002), amended LR 35:485 (March 2009), LR 35:1246 (July 2009), LR 42:

**Chapter 15. Approved Chemical Laboratories/Drinking Water**

**Subchapter A. Definitions and General Requirements**

**§1503. General Requirements**

A. - C. ...

D. - D.1. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(8)(13) and 40:5(2)(3)(5)(6)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 30:1199 (June 2004), amended LR 42:

**Public Comments**

Interested persons may submit written comments to Amanda Laughlin, Chief Engineer, Engineering Services Section, Office of Public Health, P.O. Box 4489, Baton Rouge, LA 70821-4489. She is responsible for responding to inquiries regarding this Emergency Rule.

Jimmy Guidry, M.D.  
State Health Officer  
and  
Rebekah E. Gee, MD, MPH  
Secretary, DHH

1603#006

**DECLARATION OF EMERGENCY**

**Department of Health and Hospitals  
Office of Public Health**

Protection of Water Supply  
(LAC 51:XII.344 and 346)

The state health officer, acting through the Department of Health and Hospitals, Office of Public Health (DHH-OPH), pursuant to the rulemaking authority granted by R.S. 40:4(A)(8) and (13), hereby adopts the following Emergency Rule to prevent an imminent peril to the public health and safety. This Rule is being promulgated in accordance with the Administrative Procedure Act (R.S. 49:950 et seq.).

As required by Act 836 of the 2014 Regular Legislative Session, Part XIV (Louisiana state Plumbing Code) of the Louisiana state *Sanitary Code* [LAC 51 (*Public Health—Sanitary Code*)] became null and void on January 1, 2016. In accordance with the Act, the Louisiana state Uniform Construction Code Council (LSUCCC) promulgated new state plumbing regulations through an Emergency Rule under the state Uniform Construction Code (LAC 17:I). Before January 1, 2016, comprehensive backflow protection/cross connection control regulations designed to protect public health applicable to plumbing were contained in Part XIV (Plumbing) of the state *Sanitary Code*. Effective January 1, 2016, some of these same

backflow protection/cross connection control regulations applicable to plumbing have been adopted by the LSUCCC under the state Uniform Construction Code, particularly within the 2012 *International Plumbing Code* and within the 2012 *International Residential Code* (see December 20, 2015 *Louisiana Register*, Volume 41, page 2545).

Public water supplies continue to be responsible for protecting their water systems from backflow and cross connections which may occur on customer premises and which can cause contamination of the water supply. This Emergency Rule amends Part XII (Water Supplies) of Title 51 (*Public Health—Sanitary Code*) in order to direct public water systems to utilize the backflow and cross connection control regulations contained in the state Uniform Construction Code in order to reasonably ensure the protection of their water system from contamination caused by backflow. Currently, §344.A of Part XII is outdated because it directs water suppliers to Part XIV of the state *Sanitary Code* relative to protecting its system from backflow and cross connections on customer premises. As mentioned above, plumbing regulations formerly contained under Part XIV of the state *Sanitary Code* have been repealed effective January 1, 2016.

In addition, the LSUCCC did not adopt regulations under the state Uniform Construction Code relative to the qualifications of persons installing, repairing, testing and maintaining backflow prevention devices and methods. In as much as no comprehensive regulation exists covering the qualifications of all such persons involved in the installation, repair, testing and maintenance of backflow prevention devices and methods, the rule proposes to adopt a regulation under LAC 51:XII which is nearly identical to the qualification regulations formerly contained in Part XIV of the Louisiana state *Sanitary Code*.

For these reasons, the state health officer declares that an emergency currently exists to ensure the continued protection of public health and finds it necessary to promulgate an Emergency Rule effective February 23, 2016. This Emergency Rule definitively directs water suppliers to seek applicable cross connection control regulations adopted within the state Uniform Construction Code when implementing their cross connection control program for their water system. The Emergency Rule also implements regulations in an attempt to ensure that all persons involved in the installation, repair, testing and maintenance of backflow prevention devices are qualified to perform such work. The agency intends to initiate regular rulemaking for this Rule and publish the Rule's Notice of Intent on April 20, 2016.

**Title 51**

**PUBLIC HEALTH—SANITARY CODE**

**Part XII. Water Supplies**

**Chapter 3. Water Quality Standards**

**§344. Protection of Water Supply/Containment Practices**

A. As used in this Section, *mandatory containment practices* means the containment practices prescribed in and required by the state Uniform Construction Code (LAC 17:I), including maintenance and testing requirements, and any additional or related requirements of this Part.

B. In order to protect its water supply from potential contamination, each water supplier shall develop and implement a written backflow prevention plan outlining the policies and procedures it will use to verify that its customers comply with mandatory containment practices, and shall make a reasonable effort to ensure that only customers who comply with mandatory containment practices connect or remain connected to its water supply.

C. Unless otherwise directed by the state health officer, a water supplier shall disconnect or refuse to connect customers who:

1. fail to comply with mandatory containment practices; or
2. fail to provide or allow adequate confirmation of such compliance.

D. If a water supplier has a reasonable basis to believe that an unprotected or improperly protected cross connection exists on the premise of any customer not required to comply with mandatory containment practices, the water supplier shall take reasonable steps to perform one or more of the following:

1. confirm that the cross connection on the premise is eliminated or does not exist;
2. confirm that approved fixture isolation backflow protection is installed at the cross connection on the premise in accordance with the fixture isolation practices prescribed in and required by the state Uniform Construction Code (LAC 17:I);
3. confirm that approved containment backflow protection is installed; or
4. discontinue water service to the customer.

E. When deemed necessary to protect public health, the state health officer may issue an administrative order or emergency order requiring a water supplier to comply with this Section.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(8) and 40:5(A)(2)(3)(5)(6)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 38:2795 (November 2012), amended LR 42:

**§346. Installer, Repairer, Tester and Maintainer Qualifications for Backflow Prevention Devices and Methods**

A. Installer/Repairer/Maintainer Qualifications. Backflow preventers shall be installed, repaired and/or maintained by a state Plumbing Board of Louisiana (SPBLA) -licensed plumber who holds an SPBLA water supply protection specialist endorsement on his/her plumbing license pursuant to R.S. 37:1361 et seq., and its implementing regulations (LAC 46:LV.101 et seq.). Backflow preventers associated with a landscape irrigation system may be installed, repaired and/or maintained by a Horticulture Commission of Louisiana-licensed landscape irrigation contractor who holds an SPBLA-issued special water supply protection specialist endorsement in accordance with R.S. 3:3808(P). Backflow preventers located on public property or otherwise under the complete control of the water supplier (for example, water meter and the piping upstream of the water meter, if provided) may be installed, repaired and/or maintained by a backflow

prevention assembly repairer who meets the ASSE 5130-2009 (backflow prevention assembly repairer professional qualification standard) or other individuals holding a backflow prevention assembly repairer certificate from a nationally recognized backflow certification organization approved by the state health officer.

B. Field Tester Qualifications. Backflow preventers shall be tested by a state Plumbing Board of Louisiana (SPBLA)-licensed plumber who holds an SPBLA water supply protection specialist endorsement on his/her plumbing license pursuant to R.S. 37:1361 et seq., and its implementing regulations (LAC 46:LV.101 et seq.); or, by a backflow prevention assembly tester who meets ASSE 5110-2009 (backflow prevention assembly tester professional qualification standard), or other individuals holding a testing certificate from a nationally recognized backflow certification organization approved by the state health officer. Backflow preventers associated with a landscape irrigation system may be tested by a Horticulture Commission of Louisiana-licensed landscape irrigation contractor who holds an SPBLA-issued special water supply protection specialist endorsement in accordance with R.S. 3:3808(P).

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(8) and R.S. 40:5(A)(2)(3)(5)(6)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 42:

**Public Comments**

Interested persons may submit written comments to Amanda Laughlin, Chief Engineer, Engineering Services Section, Office of Public Health, P.O. Box 4489, Baton Rouge, LA 70821-4489. She is responsible for responding to inquiries regarding this Emergency Rule.

Jimmy Guidry, M.D.  
State Health Officer  
and  
Rebekah E. Gee, MD, MPH  
Secretary, DHH

1603#007

**DECLARATION OF EMERGENCY**

**Department of Wildlife and Fisheries  
Wildlife and Fisheries Commission  
Office of Fisheries**

Suspending Entry into the Louisiana  
Fisheries Forward Program (LAC 76:VII.347)

The Wildlife and Fisheries Commission hereby suspends entry into the Louisiana Fisheries Forward Program for the commercial crab industry until such time as the blue crab stock recovers or until more restrictive permanent rules may be adopted.

The Wildlife and Fisheries Commission finds that an imminent peril to the public welfare requires adoption of a Rule upon shorter notice than that provided in R.S. 49:953(A), since the most recent blue crab stock assessment indicates that the species may be undergoing overfishing and allowing new entrants into the fishery would likely imperil

the commercial viability of the Louisiana blue crab industry. The most recent stock assessment indicates that the fishing mortality for the species has exceeded the threshold where additional management action is needed. It is necessary to adopt these Emergency Rules to temporarily prevent new entrants into the commercial crab fishery until the stock recovers, or until more restrictive apprenticeship program rules can be adopted, in order to prevent harm to the resource or to the industry. This is the recommended action from LDWF biologists and representatives of the crab industry, as the least invasive regulatory action to prevent continued overfishing of the species. Failure to take emergency action would provide an opportunity for a large influx of new entrants to the commercial crab fishery and increased fishing pressure on the blue crab stock.

This Emergency Rule is promulgated in accordance with the emergency provisions of the Administrative Procedures Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act (120 days) or until adoption of a final Rule to create more restrictive entry requirements for the program, whichever occurs first.

**Title 76**  
**WILDLIFE AND FISHERIES**  
**Part VII. Fish and Other Aquatic Life**  
**Chapter 3. Saltwater Sport and Commercial Fishery**  
**§347. Louisiana Fisheries Forward Program**

A. - H.2.b. ...

I. Suspension of Entry

a. No new applications or applicants shall be accepted into the Louisiana Fisheries Forward Program after November 6, 2015 at 5 p.m. Applicants who are enrolled prior to that date will be allowed to complete the program in accordance with the rules established in this Section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:305.6.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 41:956 (May 2015), amended LR 42:

Bart Yakupzack  
Chairman

1603#047

# Rules

## RULE

### Department of Agriculture and Forestry Office of Animal Health and Food Safety Board of Animal Health

Feral Swine (LAC 7:XXI.1301, 1311, 1312 and 1321)

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Agriculture and Forestry ("department"), through the Office Animal Health and Food Safety, Board of Animal Health, has adopted LAC 7:XXI.1301, 1311, 1312 and 1321 relative to feral swine (*Sus scrofa*) in Louisiana. Louisiana's feral swine population is estimated at 500,000. Feral swine are known carriers of a number of diseases that can infect humans and livestock, including swine brucellosis, leptospirosis, salmonellosis, toxoplasmosis, sarcoptic mange, *Escherichia coli*-related illness, trichinosis, vesicular stomatitis and classical swine fever. These regulations are an attempt to control the spread of diseases by feral swine and are adopted pursuant to R.S. 3:2135, which gives the Board of Animal Health "plenary powers to deal with all contagious and infectious diseases of animals as in the opinion of the board may be prevented, controlled, or eradicated" including the "full power to make, promulgate, and enforce such rules and regulations as in the judgment of the board may be necessary to control, eradicate, and prevent the introduction of contagious and infectious diseases of animals."

## Title 7

### AGRICULTURE AND ANIMALS

#### Part XXI. Animals and Animal Health

#### Chapter 13. Swine

##### (Formerly Chapter 9)

#### Subchapter A. General Provisions

##### §1301. Definitions

A. For purposes of this Chapter, the following words shall have the following meanings unless the context clearly indicates otherwise.

*Approved Holding Facility*—a pen or pens approved by LDAF to temporarily hold feral swine pending movement to a recognized slaughter facility or reclassification.

*Domestic Swine*—swine (*Sus scrofa*) other than feral swine.

*Feral Swine*—any hog, pig, or swine species (*Sus scrofa*) including, but not limited to, Russian and European wild boar and their hybrids that are running at large, free roaming, or wild upon public or private lands in this state, and shall also include any hog, pig, or swine species that has lived any part of its life running at large, free roaming, or wild. The term feral swine shall also include any feral phenotype swine, whether or not running at large, free roaming, or wild.

*Feral Swine Authorized Transporter*—a person authorized by the Board of Animal Health to transport live feral swine to state or federally inspected slaughter facilities,

quarantine swine feedlots and feral swine approved holding facilities.

*Recognized Slaughter Facility*—a slaughter facility operated under the state or federal meat inspection laws and regulations.

*Swine-Proof Fence*—a fence constructed to sufficient construction standards; with materials of hog-proof net, woven or welded wire and wood, metal or other approved posts and, be maintained to prevent egress of swine over, through, or under the fence.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2093.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Animal Health and Food Safety, Board of Animal Health, LR 42:391 (March 2016).

##### §§1303-1309. Reserved.

#### Subchapter B. Brucellosis and Pseudorabies

##### §1311. Quarantining, Vaccinating and Testing Swine for Brucellosis and Pseudorabies (Formerly §905)

A. - I. ...

J. Free roaming or feral swine may be qualified for reclassification as domestic swine upon completion of the following test protocol:

1. three consecutive complete herd tests (CHT) for brucellosis and pseudorabies with negative results:

a. the first CHT must be completed at least 30 days after removal of the last reactor;

b. the second CHT must be conducted 60-90 days after the first CHT; and

c. the third CHT must be conducted 60-90 days following the second CHT;

2. any sexually intact female swine shall also undergo a brucellosis and pseudorabies test, with negative results, no later than 30 days after their initial farrowing;

3. reclassification of feral swine must be conducted by a category 2 USDA-accredited veterinarian;

4. reclassified feral swine must be maintained with a USDA official ID and must show proof of reclassification;

5. reclassified feral swine must not be comingled with unclassified feral swine nor be held within 200 feet of captive unclassified feral swine.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2093 and R.S. 3:2135.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Livestock Sanitary Board, LR 16:392 (May 1990), amended LR 18:839 (August 1992), LR 20:1258 (November 1994), LR 23:1493 (November 1997), repromulgated by the Department of Agriculture and Forestry, Office of Animal Health and Food Safety, Board of Animal Health, LR 40:969 (May 2014), amended LR 42:391 (March 2016).

##### §1312. Swine Movement Restrictions and Feral Swine Authorized Transporter Authorization

A. No person shall import live feral swine into this state unless the live feral swine are going directly to a state or federally inspected slaughter establishment, a quarantine swine feedlot or a feral swine approved holding facility in a

sealed trailer accompanied by a USDA VS Form 1-27 permit for the movement of restricted animals.

B. No person shall transport live feral swine within the state of Louisiana without first registering as a feral swine authorized transporter with the Board of Animal Health. Registration as a feral swine authorized transporter shall not be transferrable and shall be active for a five-year period.

C. Application to become a feral swine authorized transporter shall be on a form prescribed by the Board of Animal Health and shall include the following information:

1. name, mailing address, physical address, email address, and telephone number of the applicant;
2. driver's license number of the applicant;
3. brief statement describing the area and parishes wherein the applicant typically transports feral swine;
4. description of the vehicles used to transport live feral swine including any license tag numbers.

D. Live feral swine shall only be transported to the following:

1. approved holding facilities;
2. quarantine swine feedlot;
3. a state or federally inspected slaughter facility;
4. pursuant to an order issued by the state veterinarian.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2135 and R.S. 3:2137.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Animal Health and Food Safety, Board of Animal Health, LR 42:391 (March 2016).

#### **Subchapter C. Quarantine Swine Feedlots and Feral Swine Approved Holding Facilities**

##### **§1321. Quarantine Swine Feedlots and Feral Swine Approved Holding Facilities (Formerly §909)**

A. No person may operate a quarantine swine feedlot or feral swine approved holding facility without first obtaining a permit from the Board of Animal Health. Any person operating a feedlot or approved holding facility without a valid permit will be in violation of this regulation and subject to prosecution.

B. Applications for operation of a quarantine swine feedlot or feral swine approved holding facility shall be made on a form prescribed by the Board of Animal Health. A permit for operation of a quarantine swine feedlot or feral swine approved holding facility may be granted after a determination that the following requirements have all been met.

1. All swine, whether in a quarantine swine feedlot or feral swine approved holding facility, must be maintained at a minimum of 200 yards from any domestic swine pens.

2. Complete records must be maintained on all swine, including feral swine, placed in or removed from a quarantine swine feedlot or feral swine approved holding facility. These records shall be kept by the permit holder for a period of five years and shall be made available to state-federal personnel upon request. The records shall include the following:

- a. the number of swine placed in and removed from the facility quarterly;
- b. the name and feral swine transporter authorization number of the individual who transported each feral swine to the facility;
- c. the weight, color, sex and any applied identification for each animal;

d. the date each animal was placed in and removed from the facility; and

e. the name of the parish where the feral swine was trapped.

3. All swine movements from a quarantine feedlot or feral swine approved holding facility must be directly to a slaughtering establishment operating under approved state or federal meat inspection unless feral swine have qualified for domestic status reclassification.

4. No unclassified feral swine shall be comingled with domestic swine unless the facility is operating as a quarantine swine feedlot.

5. Only feral swine may be placed in a feral swine approved holding facility.

6. Quarantine swine feedlots and feral swine approved holding facilities must be fenced with a swine-proof fence to prevent any swine from escaping. The fencing must be continually maintained by the owner/operator to prevent escape of swine. The Board of Animal Health must be notified of any escapes within 12 hours by the permit holder. Failure to do so may result in termination of the facility permit.

7. Swine shall not be fed garbage while being held in a quarantine feedlot or a feral swine approved holding facility.

8. Each quarantine swine feedlot and feral swine approved holding facility shall be inspected at least annually by an authorized agent of the Board of Animal Health.

C. Cancellation of Quarantine Swine Feedlot or Feral Swine Approved Holding Facility Permit

1. A quarantine swine feedlot permit or feral swine approved holding facility permit may be cancelled upon written notice that the operation does not meet the requirements of this regulation, or the operator of such quarantine swine feedlot or feral swine approved holding facility has violated the provisions of this regulation in any respect.

2. The board shall give written notice of the cancellation of a quarantine swine feedlot permit or feral swine-approved holding facility permit to the operator thereof.

3. Any operator of a quarantine swine feedlot or feral swine approved holding facility whose permit is ~~so~~ canceled may appeal the cancellation thereof by written notice to the board within 10 days of receipt of the notice of cancellation. Any operator of a quarantine swine feedlot or feral swine approved holding facility that appeals cancellation of his permit shall be entitled to a full hearing before the board, and the decision of the board at such hearing will be final unless the operator appeals to a court of competent jurisdiction.

4. Upon cancellation of a permit, the permit holder may take up to 14 days to dispose of all swine and/or feral swine at the facility. No feral swine, or any swine species, shall be released into the wild.

5. Cleaning and disinfection of the premises shall be completed immediately upon closure of the facility if required by the Board of Animal Health.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2093 and R.S. 3:2135.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Livestock Sanitary Board, LR 11:247 (March 1985), amended LR 11:615 (June 1985), repromulgated by the Department

of Agriculture and Forestry, Office of Animal Health and Food Safety, Board of Animal Health, LR 40:970 (May 2014), amended LR 42:392 (March 2016).

Mike Strain, DVM  
Commissioner

1603#053

## RULE

### Department of Agriculture and Forestry Office of Forestry

#### Logos for State Products (LAC 7:V.2701-2713)

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., and through authority granted in R.S. 3:4271, the Department of Agriculture and Forestry ("department"), has adopted LAC 7:V.2701-2713 in order to create standards for use of a department-adopted logo for certain products.

#### Title 7

#### AGRICULTURE AND ANIMALS

#### Part V. Advertising, Marketing and Processing

#### Chapter 27. Logos for State Products

##### §2701. Purpose; Definitions

A. This Chapter is adopted pursuant to R.S. 3:4271 and shall govern eligibility and rules to participate in the department's logo program.

B. For purposes of this Chapter, the following terms shall have the meaning hereafter ascribed to them, unless the context clearly indicates otherwise.

*Commissioner*—the commissioner of the Louisiana Department of Agriculture and Forestry.

*Department*—the Louisiana Department of Agriculture and Forestry.

*License*—written authorization from the Louisiana Department of Agriculture and Forestry for the non-exclusive use of the logo.

*Licensee*—applicant who applied to the department for a license to use the logo(s) and whose application was approved.

*Logo*—the logos adopted by the department pursuant to R.S. 3:4271 to promote products made, grown, manufactured, processed, produced or substantially transformed in the state of Louisiana. The logos include certified Louisiana, certified Louisiana Cajun, certified Louisiana Creole, and certified Louisiana farm to table restaurant.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4271.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Forestry, LR 42:393 (March 2016).

##### §2703. Eligibility

A. The department shall have sole discretion to determine whether a product, restaurant or agritourism activity is eligible to be labeled with one of the certified logos. To be eligible, a company must possess and be in compliance with all other state and federal permits, licenses and laws.

B. In order for a product to be eligible for inclusion in the logo program, it must be made, grown, manufactured,

processed, produced or substantially transformed in the state of Louisiana.

C. In order for a product to be eligible to use the certified Louisiana Creole logo, at least 50 percent of the product must be made, grown, produced, manufactured, processed or packed in Louisiana and the owner shall be of Creole decent and/or product(s) being of Creole heritage.

D. In order for a product to be eligible to use the certified Louisiana Cajun logo, at least 50 percent of the product must be made, grown, produced, manufactured, processed or packed in Louisiana and the owner shall be of Cajun decent and/or product(s) being of Cajun heritage.

E. In order for a restaurant to be eligible to use the certified farm to table logo, a majority of the restaurant's raw and value added products shall produced and sourced as locally as possible, within Louisiana and or less than 200 miles from its origin, which means going directly from the farm to the table.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4271.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Forestry, LR 42:393 (March 2016).

##### §2705. Application Process and Product Verification

A. Applications for use of the logos shall be made in writing on a form prescribed by the department. All applications must be signed and notarized. Applications which are not signed and notarized will be returned to the applicant.

B. Each application shall be accompanied by a non-refundable \$25 application fee. Applications which do not include the application fee will be returned to the applicant.

C. Applicant's proposed use of the logo shall be included in the application and is subject to review and acceptance by the department.

D. Within 30 days of receipt of the application by department, the department shall make a determination of whether such registration permission is granted or denied and shall notify the applicant of same in writing or by electronic mail. A site visit may be required to help determine the eligibility of the registrant to participate in the program. Applicants agree to allow a representative from the department to visit the production and/or processing facilities to verify compliance with guidelines established by the department.

E. Upon approval of the application, a registration fee of \$30 per logo shall be paid to the department. Upon receipt of the registration payment, the department shall provide the registrant a certificate of registration, which will expire on December 31 unless timely renewed, and a digital jpeg and/or eps copies of the logo(s) suitable for reproduction.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4271.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Forestry, LR 42:393 (March 2016).

##### §2707. Denial of Registration

A. Applications for use of the logo(s) may be denied if:

1. The product or activity falls outside of the definition as prescribed by law.

2. The product is of a quality markedly inferior to that representative of similar products produced in Louisiana;



3. The applicant has misused the logo(s) prior to the date of application; or the applicant has used the logo(s) without permission of the department;

4. The applicant's use of the logos would, in the department's opinion, either:

a. Impair or frustrate the department's efforts to expand or encourage development of the markets for Louisiana agricultural and other products; or

b. Fail to enhance the integrity and image of the program, as determined by the department; or

c. it has been determined not to be in accordance with department policy.

B. Any applicant whose request to use the logo(s) is denied may protest the department's decision by filing a notice of protest with the department within 15 days of receipt by the applicant of notice of denial. A notice of protest which has been timely filed shall be administered as a contested case as provided for the Administrative Procedure Act. If notice of protest has not been filed with the department within 15 days of receipt by the applicant of notice of denial, such denial shall become final.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4271.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Forestry, LR 42:393 (March 2016).

#### **§2709. Renewal of Registration**

A. All licenses expire December 31 of each year. Licensee's right to use logo(s) will cease at 12:01 a.m. on January 1 unless an application for renewal has been timely submitted to and approved by department.

B. Applications for renewal of registration shall be made in writing on a form prescribed by the department. The fee for renewal of registration is \$30.

C. Applicant's application for renewal of registration and \$30 renewal fee must be received on or before the close of business on December 31. Upon receipt of the renewal application and annual fee, the department will send an approved registrant a certificate of registration.

D. Failure to remit the annual registration fee by December 31 shall result in the registrant being designated as inactive. Failure to timely remit the renewal application and renewal fee within by January 10 shall result in the expiration of the registration and the licensee will be treated as a new applicant and must follow the procedure set forth in rule 105.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4271.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Forestry, LR 42:394 (March 2016).

#### **§2711. Use of Logo**

A. No person shall, in commerce, advertise, sell, offer or expose for sale, distribute, package or in any other manner identify any services or goods with the logo affixed to such service or good, unless the logo use has been previously approved by the department.

B. Any permission granted by the department to licensee for use of the logo shall be nonexclusive and nontransferable

to another person or another product. The logo may only be used on the product(s) set forth in the application and listed on the registration certificate.

C. Licensee's authorization to use the logo(s) shall not be construed to grant or assign any right, title or interest in or to the logo(s) or the goodwill attached thereto.

D. Licensee shall not alter the appearance of the logo(s) in any manner. Licensee may use the logo in any color he desires, but logo wording may not be altered.

E. Other than the authorized use of the logo(s), no licensee shall use any statement of affiliation or endorsement by the state of Louisiana or the department in the selling, advertising, marketing, packaging, or other commercial handling of products and services, or restaurants.

F. The following shall constitute misuse of the logo:

1. using the logo(s) on any product for which use has not been granted by the department;

2. using the logo(s) on a product that is not in compliance with state or federal law;

3. using the logo(s) in a manner that is disparaging to the department;

4. using the logo(s) in violation of any rule promulgated by the department;

5. using the logo(s) without a valid registration.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4271.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Forestry, LR 42:394 (March 2016).

#### **§2713. Enforcement**

A. In the event that the department determines that a licensee has misused the logo(s), the department shall conduct an adjudicatory hearing in accordance with the Administrative Procedure Act in order to determine whether to suspend or revoke the licensee's permission to use the logo(s).

B. All hearings conducted pursuant to this section shall be heard by a three person hearing panel appointed by the commissioner. The commissioner may appoint a hearing officer to conduct the hearing.

C. At the conclusion of the administrative hearing, the hearing panel may recommend that the licensee's permission to use the logo(s) be suspended or revoked. The hearing panel's recommendation shall be submitted to the commissioner for his determination.

D. The department may pursue other civil or injunctive remedies against any person or company misusing the logo. All proceedings shall be brought in the 19th Judicial District in East Baton Rouge Parish.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4271.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Forestry, LR 42:394 (March 2016).

Mike Strain, DVM  
Commissioner

1603#054

## RULE

### Department of Children and Family Services Division of Programs Licensing Section

#### Juvenile Detention (LAC 67:V.Chapter 75)

In accordance with the provisions of the Administrative Procedures Act R.S. 49:953(A), the Department of Children and Family Services (DCFS) has amended LAC 67:V, Subpart 8, Chapter 75 Juvenile Detention Facilities, Sections 7505, 7507, 7511, 7513, 7515, and 7517.

The Rule enhances and clarifies current regulations for the health and safety of youth placed in juvenile detention facilities. The modifications address ownership and organizational type, application requirements, criminal background checks, health screenings, training, supervision, incidents, grievances, monitoring, and educational requirements.

#### Title 67

#### SOCIAL SERVICES

#### Part V. Child Welfare

#### Subpart 8. Residential Licensing

#### Chapter 75. Juvenile Detention Facilities

#### §7505. Definitions

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*Change of Location*—change of physical address of facility.

*Change of Ownership*—a transfer of ownership of a currently licensed facility that is in operation and serving youth to another entity without a break in service to the youth.

\*\*\*

*Corporation*—any entity incorporated in Louisiana or incorporated in another state, registered with the secretary of state in Louisiana, and legally authorized to do business in Louisiana.

\*\*\*

*Individual Owner*—a natural person who directly owns a facility without setting up or registering a corporation, LLC, partnership, church, university, or governmental entity. The spouse of a married owner is also an owner unless the business is the separate property of the licensee acquired before his/her marriage, acquired through a judicial separation of property agreement or acquired via a judicial termination of the community of acquets and gains.

\*\*\*

*Juridical Person/Entity*—corporation, partnership, limited-liability company, church, university, or governmental entity.

\*\*\*

*Natural Person*—a human being and, if that person is married and not judicially separated or divorced, the spouse of that person.

\*\*\*

*Owner or Operator*—the individual who exercises ownership or control over a facility, whether such ownership/control is direct or indirect.

*Ownership*—the right that confers on a person direct, immediate, and exclusive authority over a thing. The owner

of a thing may use, enjoy, and dispose of it within the limits and under the conditions established by law.

1. *Direct Ownership*—when a natural person is the immediate owner of a facility, i.e., exercising control personally rather than through a juridical entity.

2. *Indirect Ownership*—when the immediate owner is a juridical entity.

*Partnership*—includes any general or limited partnership licensed or authorized to do business in this state. The owners of a partnership are its limited or general partners and any managers thereof.

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AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1110.

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 38:1559 (July 2012), amended LR 39:1006 (April 2013), effective July 1, 2013, amended LR 42:395 (March 2016).

#### §7507. Licensing Requirements

A. - A.14. ...

15. The following is a listing of individuals by organizational type who are considered owners for licensing purposes.

a. *Individual Ownership*—individual and spouse.

b. *Partnership*—all limited or general partners and managers, including but not limited to, all persons registered as limited or general partners with the Secretary of State's Corporations Division.

c. *Church Owned, Governmental Entity, or University Owned*—any clergy and/or board member that is present in the facility during the hours of operation or when youth are present. If clergy and/or board members are not present in the facility, the director/administrator shall provide an annual statement attesting to such.

d. *Corporation* (includes limited liability companies)—any person who has 25 percent or greater share in the ownership or management of the business or who has less than a 25 percent share in the ownership or management of the business and meets one or more of the criteria listed below. If a person has less than a 25 percent share in the ownership or management of the business and does not meet one or more of the criteria listed below, a signed, notarized attestation form shall be submitted in lieu of providing a criminal background clearance. This attestation form is a signed statement which shall be updated annually from each owner acknowledging that he/she has less than a 25 percent share in the ownership or management of the business and that he/she does not meet any of the criteria listed below:

i. has unsupervised access to the youth;

ii. is present in the facility;

iii. makes decisions regarding the day-to-day operations of the facility;

iv. hires or fires staff including the director/administrator; or

v. oversees staff or conducts personnel evaluations of staff.

B. - F.2. ...

3. When a facility changes ownership, the current license is not transferable. A change of ownership occurs when the license and/or facility is transferred from one natural or juridical person to another, or when an officer, director, member, or shareholder not listed on the initial

application exercises or asserts authority or control on behalf of the entity. The addition or removal of members of a board of directors shall not be considered a change of ownership where such addition or removal does not substantially affect the entity's operation and shall require only notice be given to the DCFS of such addition or removal.

a. Prior to the ownership change and in order for a temporary license to be issued, the new owner shall submit a change of ownership (CHOW) application packet containing the following:

i. a completed application and full licensure fee as listed in §7507.D. based on current licensed capacity or requested capacity, whichever is less;

ii. current (as noted in §7507.F.3.b) Office of State Fire Marshal approval;

iii. current (as noted in §7507.F.3.b) Office of Public Health approval;

iv. current (as noted in §7507.F.3.b) city fire approval (if applicable);

v. a sketch or drawing of the premises including all rooms, bathrooms, common areas, kitchen, classrooms, buildings, and recreation areas;

vi. a list of staff to include staff's name and position;

vii. documentation of administrator's qualifications as listed in §7511A.2;

viii. copy of a bill of sale or lease agreement;

ix. documentation of a fingerprint-based satisfactory criminal record clearance for all staff, including owners and operators. CBC shall be dated no earlier than 30 days before the application has been received by the Licensing Section. The prior owner's documentation of satisfactory criminal background checks is not transferrable; and

x. documentation of completed state central registry disclosure forms noting no justified (valid) finding of abuse and/or neglect for all staff, including owners and operators, or a determination from the Risk Assessment Panel or Division of Administrative Law (DAL) noting that the individual does not pose a risk to children. The prior owner's documentation of state central registry disclosure forms is not transferrable.

b. The prior owner's current Office of State Fire Marshal, Office of Public Health, and city fire approvals are only transferrable for 60 calendar days. The new owner shall obtain approvals dated after the effective date of the new license from these agencies within 60 calendar days. The new owner will be responsible for forwarding the approval or extension from these agencies to the Licensing Section.

c. A licensing inspection shall be conducted within 60 calendar days from the effective date of licensure of the new owner to verify that the provider is in compliance with the minimum standards. At this time, licensing staff shall complete a measurement of the facility and recreational area. Upon review of the space, the capacity of the facility may be reduced or increased as verified by the new measurement of the facility.

d. All staff and youth's information shall be updated under the new ownership prior to or on the first day services are provided by the new owner.

e. If all information in §7507.F.3 is not received prior to or on the last day services are provided by the

existing owner, the new owner shall not operate until a license is issued. The new owner is not authorized to provide services until the licensure process is completed in accordance with §7507.B-C.

F.4. - J.4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1110.

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 38:1561 (July 2012), amended LR 38:3104 (December 2012), LR 39:1006 (April 2013), effective July 1, 2013, amended LR 42:395 (March 2016).

#### **§7511. Facility Responsibilities**

A. - A.3.e.iv. ...

B. Background Clearances

1. No staff of the facility shall be hired until such person has submitted his/her fingerprints to the Louisiana Bureau of Criminal Identification and Information so that it may be determined whether or not such person has a criminal conviction of a felony, or a plea of guilty, or nolo contendere of a felony, or a criminal conviction, or a plea of guilty or nolo contendere to any offense included in R.S. 15:587.1, or any offense involving a juvenile victim. CBC shall be dated no earlier than 30 days prior to the date of hire. If it is determined that such a person has a conviction or has entered a plea of guilty or nolo contendere to a crime listed in R.S. 15:587.1(C) or any offense involving a juvenile victim, that person shall not be hired. No staff shall be present on the JDF premises until such a clearance is received.

2. ...

3. A criminal record check shall be conducted on all volunteers that interact with the youth. No volunteer of the facility shall be allowed to work with youth until such person has submitted his/her fingerprints to the Louisiana Bureau of Criminal Identification and Information so that it may be determined whether or not such person has a criminal conviction, or a plea of guilty or nolo contendere to any offense included in R.S. 15:587.1, or any offense involving a juvenile victim. CBC shall be dated no earlier than 30 days prior to the volunteer being present on the JDF premises. If it is determined that such a person has a conviction or has entered a plea of guilty or nolo contendere to a crime listed in R.S. 15:587.1(C) or any offense involving a juvenile victim, that person shall not be allowed to volunteer with youth at the JDF. No volunteer shall be present on the JDF premises until such a clearance is received.

4. Documentation of a fingerprint-based satisfactory criminal background check (CBC) from Louisiana State Police is required for all qualified mental health professionals and all qualified medical professionals who interact with youth unless they are supervised by facility staff or court-appointed or requested by legal counsel. This check shall be obtained and dated prior to the individual being present in the facility or providing services for the facility. No person who has been convicted of, or pled guilty or nolo contendere to any offense included in R.S. 15:587.1, shall be present in any capacity in any licensed JDF. A criminal background check is satisfactory for purposes of this section if it shows no arrests for any enumerated offense or, if an arrest is shown on the background check, the background check or certified documentation from the

jurisdiction of arrest affirmatively shows that the charges were disposed of without a conviction for any excludable offense. A plea of guilty or nolo contendere shall be deemed a conviction.

5. Documentation of a fingerprint-based satisfactory criminal background check (CBC) from Louisiana State Police is required for all Louisiana Department of Education staff or local school district staff that interact with youth. This check shall be obtained prior to the individual being present in the facility or providing services for the facility. No person who has been convicted of, or pled guilty or nolo contendere to any offense included in R.S. 15:587.1, shall be present in any capacity in any licensed JDF. CBC shall be dated prior to the individual being present on the premises. A criminal background check is satisfactory for purposes of this section if it shows no arrests for any enumerated offense or, if an arrest is shown on the background check, the background check or certified documentation from the jurisdiction of arrest affirmatively shows that the charges were disposed of without a conviction for any excludable offense. A plea of guilty or nolo contendere shall be deemed a conviction.

a. If an individual has previously obtained a certified copy of their criminal background check obtained from the Louisiana Bureau of Criminal Identification and Information Section of the Louisiana State Police, such certified copy shall be acceptable as meeting the CBC requirements. If an individual provides a certified copy of their criminal background check which he/she has previously obtained from the Louisiana State Police to the provider, this criminal background check shall be accepted for a period of one year from the date of issuance of the certified copy. An original certified copy or a photocopy of the certified copy shall be kept on file at the JDF. Prior to the one-year expiration of the certified criminal background check, a new fingerprint-based satisfactory criminal background check shall be obtained from Louisiana State Police in order for the individual to continue providing services at the JDF. If the clearance is not obtained prior to the one-year expiration of the certified criminal background check, the individual is no longer allowed on the premises until a clearance is received;

b. For the first school year that a LDE staff person or local school district staff person provides services to a child, that LDE staff person or local school district staff person shall provide documentation of a fingerprint based satisfactory criminal record check as required by §7511.B.5 or shall provide the original, completed, signed, notarized, DCFS-approved affidavit to the provider prior to being present and working with a child or children at the facility. A photocopy of the original affidavit shall be kept on file at the facility. This affidavit will be acceptable for the entire school year noted in the text of the affidavit and expires on May 31 of the current school year. For all subsequent school years following the first year, the LDE staff or local school district staff person shall present a new affidavit or an original, completed, and signed letter from the superintendent of the school district or designee or superintendent of LDE or designee. The provider will need to view the original letter presented by the LDE staff or local school district staff person and keep a photocopy of the original letter on file at the facility. This letter will be acceptable for the entire

school year noted in the text of the letter and expires on May 31 of the current school year. The letter is acceptable only if the following conditions are met:

i. the LDE staff person or local school district staff person has remained employed with the same school district as noted in the affidavit the provider has on file;

ii. the provider has maintained a copy of the affidavit on file; and

iii. the letter is presented on school district letterhead or LDE letterhead and signed by the superintendent of the school district or designee or superintendent of LDE or designee.

6. Prior to employment, each prospective employee shall complete a state central registry disclosure form prepared by the department as required in R.S. 15:1110.2. This information shall be reported prior to the individual being on the premises of the juvenile detention facility and shall be updated annually, at any time upon the request of DCFS, and within 24 hours or no later than the next business day, whichever is sooner, of any staff receiving notice of a justified (valid) finding of child abuse or neglect.

a. The prospective paid staff (employee) shall complete, sign, and date the state central registry disclosure form and submit the disclosure form to the owner or operator of the facility.

i. If a prospective staff (employee) discloses that his or her name is currently recorded as a perpetrator on the state central registry, the administrator shall inform the applicant they will not be considered for employment at that time due to the state central registry disclosure. The administrator will provide the prospective employee with the risk evaluation panel form (SCR 2) so that a risk assessment evaluation may be requested.

ii. Individuals are not eligible for employment unless and until they provide written documentation from the risk evaluation panel or the Division of Administrative Law expressly stating that they do not pose a risk to youth.

b. Current staff receiving notice of a justified (valid) finding of child abuse and/or neglect shall complete an updated state central registry disclosure form (SCR 1) noting the existence of the justified (valid) finding as required by R.S. 15:1110.2. This updated SCR 1 shall be submitted to the Licensing Section management staff within 24 hours or no later than the next business day, whichever is sooner, or upon being on the juvenile detention facility premises, whichever is sooner. Staff will have 10 calendar days from the date of required completion of the state central registry disclosure form to request a risk assessment evaluation in accordance with LAC 67:I.305 or shall be terminated immediately.

i. If the staff person will no longer be employed at the facility, the provider shall submit a signed, dated statement indicating that the staff will not be on the premises of the facility at any time.

ii. Immediately upon the receipt of the knowledge that a justified (valid) finding has been issued by DCFS and as a condition of continued employment the staff person shall be directly supervised by a paid staff (employee) of the facility who has completed the required state central registry disclosure form and who has indicated on that form that the employee's name does not appear on the state central registry with a justified (valid) finding on the state central

registry. Provider shall submit a written statement to Licensing Section management staff acknowledging that the staff is under continuous direct supervision by a paid staff as provided above. When these conditions are met, the staff (employee) may be counted in staff to youth ratio. Under no circumstances may the staff person with the justified finding be left alone and unsupervised with the youth pending the disposition by the risk evaluation panel or the Division of Administrative Law that the staff person does not pose a risk to youth.

iii. If the risk evaluation panel finds the individual does pose a risk to youth and the individual fails to appeal the decision within the required timeframe, the staff (employee) shall be terminated immediately.

iv. If the risk evaluation panel finds the individual poses a risk to youth and the individual appeals the finding to the Division of Administrative Law within the required timeframe, the staff (employee) shall continue to be under direct supervision at all times by another paid employee of the facility who has completed the required state central registry disclosure form and who has indicated on that form that the employee's name does not appear on the state central registry with a justified (valid) finding on the state central registry until a ruling is made by the Division of Administrative Law that they do not pose a risk to youth. Supervision must continue until receipt of a ruling from the Division of Administrative Law that they do not pose a risk to youth.

v. If the Division of Administrative Law upholds the risk evaluation panel finding that the individual does pose a risk to youth, the individual shall be terminated immediately.

c. Any owner, operator, current or prospective employee, or volunteer of a juvenile detention facility requesting licensure by DCFS and/or a juvenile detention facility licensed by DCFS is prohibited from working in a juvenile detention facility if the individual discloses, or information is known or received by DCFS, that the individual's name is recorded on the state central registry (SCR) as a perpetrator for a justified (valid) finding of abuse and/or neglect of a child, unless there is a finding by the risk evaluation panel or a ruling by the Division of Administrative Law that the individual does not pose a risk to youth.

#### C. Health Screening

1. All staff shall receive a physical examination that includes screening for infectious and contagious diseases. Documentation of this examination shall be dated within three months prior to the staff's date of hire or within 30 days after staff's date of hire. Physical examinations shall be required every three years.

#### D. - F.1.b. ...

##### 2. Orientation

a. All new direct care staff and support staff that have direct contact with youth shall receive a minimum of 40 hours of orientation training before assuming any job duties. This training shall include, at a minimum, the following:

##### 2.a.i. - 3.b.xi. ...

#### 4. Annual Training

a. All direct care staff and support staff shall receive a minimum of 40 hours of training annually. This training shall include, at a minimum, the following:

##### 4.a.i. - 5.a.ix. ...

6. All staff employed longer than 60 days shall maintain documentation of current certification in first aid and CPR.

#### G. Staffing Requirements

##### 1. - 3. ...

4. A minimum of one direct care staff shall be maintained in rooms when educational services are being provided, with additional staff in close proximity of the educational service rooms in order to intervene, if necessary.

5. Youth shall be checked by a staff person at least every 15 minutes when in sleeping rooms, whether asleep or awake. Documentation of checks shall be maintained.

6. Direct care staff who are needed to satisfy the staff to youth ratio shall be able to directly see, hear, and speak with the youth when youth are not in their sleeping rooms.

7. There shall be a minimum of 1 to 16 ratio of direct care staff to youth during the hours that youth are asleep.

8. Direct care staff of one gender shall be the sole supervisor of youth of the same gender during showers, physical searches, pat downs, or during other times in which personal hygiene practices or needs would require the presence of a direct care staff of the same gender.

9. Video and audio monitoring devices shall not substitute for supervision of youth.

10. The provider shall provide youth that have limited English proficiency with meaningful access to all programs and activities. The provider shall provide reasonable modifications to policies and procedures to avoid discrimination against persons with disabilities.

##### H. - I.1.d.v.(b). ...

vi. Copies of all written reports shall be maintained in a central incident file.

#### J. Abuse and Neglect

##### 1. ...

2. In accordance with article 603 of the *Louisiana Children's Code*, all staff employed by a juvenile detention facility are mandatory reporters. In accordance with article 609 of the *Louisiana Children's Code*, a mandatory reporter who has cause to believe that a child's physical or mental health or welfare is endangered as a result of abuse or neglect or was a contributing factor in a child's death shall report in accordance with article 610 of the *Louisiana Children's Code*.

#### K. Grievance Procedure

##### 1. - 4. ...

5. The provider shall maintain all verbal, written, and/or anonymous grievances filed and the manner in which they were resolved in a central grievance file.

6. A copy of the grievance and the resolution shall be given to the youth, and a copy shall be kept in a central grievance file.

##### L. - L.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1110.

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 38:1565 (July 2012), amended LR 39:1007 (April 2013), effective July 1, 2013, amended LR 42:396 (March 2016).

**§7513. Admissions and Release**

- A. - E.2.a.xi. ...
- b. Repealed.

F. - H.2.c. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1110.

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 38:1569 (July 2012), amended LR 42:399 (March 2016).

**§7515. Youth Protections**

A. - E.2.c.vii. ...

d. Staff involved shall file an incident report with the shift supervisor by the end of the shift. The report shall outline in detail the presenting circumstances and a copy shall be kept in a central incident report file. At a minimum, the incident report shall contain the following:

- i. name of the youth;
- ii. date and time the incident occurred;
- iii. a brief description of the incident;
- iv. where the incident occurred;
- v. any youth and/or staff involved in the incident;
- vi. immediate treatment provided if any;
- vii. signature of the staff completing the report; and
- viii. any follow-up required.

E.2.e. - F.4.d. ...

5. In all situations in which a restraint is used, staff involved shall record an incident report with the shift supervisor by the end of the shift. The report shall outline in detail the presenting circumstances and a copy shall be kept in a central incident report file. At a minimum, the incident report shall contain the following:

- a. the name of the youth;
- b. the date, time, and location the intervention was used;
- c. the type of intervention used;
- d. the name of the staff member requesting use of the intervention;
- e. the name of the supervisor authorizing use of the intervention;
- f. a brief description of the incident and the reason for the use of the intervention;
- g. the efforts made to de-escalate the situation and alternatives to the use of intervention that were attempted;
- h. any other youth and/or staff involved in the incident;
- i. any injury that occurred during the intervention restraint and immediate treatment provided if any;
- j. the date and time the youth was released from the intervention;
- k. the name and title of the health professional authorizing continued use of a restraint if necessary beyond 60 minutes;
- l. signature of the staff completing report; and
- m. any follow-up required.

F.6. - G.4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1110.

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Division of Programs, Licensing

Section, LR 38:1572 (July 2012), amended LR 42:399 (March 2016).

**§7517. Facility Services**

A. - A.4. ...

5. Within three school days of the youth's arrival at the facility, the provider shall request educational records from the youth's previous school. If records are not received within ten school days of the request, the administrator shall report in writing on the eleventh day to the local school district from which records were requested that the information has been requested and not received. If the records are not received within the following seven school days of notifying the local school district, the administrator shall file a written complaint with the Board of Elementary and Secondary Education (BESE) on the eighth day.

6. - 14. ...

15. The administrator shall immediately report in writing to the local school district if the facility school is not being staffed adequately to meet state student to teacher ratios for education, including not but not limited to, special education staff and substitute teaching staff. If the issue is not resolved within five school days by the local school district, then the administrator shall file a written complaint on the sixth day with BESE and cooperate with any subsequent directives received from BESE.

B. - D.3.b.i. ...

ii. Staff shall document the monitoring of youth on suicide watch at the time they conduct the monitoring. The qualified mental health professional shall approve the standard protocol for the maximum amount of time that should lapse between monitoring by a staff member. The qualified mental health professional shall document any deviation from the approved standard protocol for specific cases. Staff shall monitor no less frequently than the recommendations set forth by the mental health professional.

D.3.b.iii. - F.16. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1110.

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 38:1559 (July 2012), amended LR 42:399 (March 2016).

Marketa Garner Walters  
Secretary

1603#020

**RULE**

**Board of Elementary and Secondary Education**

Bulletin 1508—Pupil Appraisal Handbook  
(LAC 28:CI.305, 307, 511, 711, 713, 717, 719 and 1509)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education has amended *Bulletin 1508—Pupil Appraisal Handbook*: §305, Screening Activities; §307, Referral Process; §511, Evaluation Timelines; §711, Intellectual Disability; §713, Multiple Disabilities; §717, Other Health Impairment; §719, Specific Learning Disability; and §1509, School Health Services and School Nurse Services. The policy revisions are necessary to clarify and align policy with recommendations of professional health organizations,

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as well as federal law, regarding students with exceptionalities.

## **Title 28 EDUCATION**

### **Part CI. Bulletin 1508—Pupil Appraisal Handbook Chapter 3. Interventions and Screenings**

#### **§305. Screening Activities**

- A. - B.1.a.iii. ...
- b. The student is considered "at-risk" of having a hearing impairment when one of the following conditions exist:
- failure to respond at 20db in one of 1000 Hz, 2000 Hz or 4000 Hz frequencies in at least one ear;
  - middle ear pressure outside the range of -200 and +50 mm H<sub>2</sub>O in either ear; or
  - excessively stiff or flaccid tympanogram in either ear.
- 1.c. - 2.b.iii. ...
- c. When the required techniques are unsuccessful because of the student's immaturity, physical impairment, or intellectual ability, adapted methods of testing shall be used to determine the extent of the loss.

- B.3. - H.1.e. ...
- interventions are required for students suspected of having autism, developmental delay, emotional disturbance, mild intellectual disability, orthopedic impairment, other health impairment, and specific learning disability. Interventions are not required for a preschool-aged child, a student suspected of being gifted or talented, or a student suspected of having a severe or low incidence impairment.

I. - J.4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 35:898 (May 2009), effective July 1, 2009, amended LR 42:400 (March 2016).

#### **§307. Referral Process**

- A. - A.3. ...
- B. An immediate referral may be made to pupil appraisal services for an individual evaluation of those students suspected of having low incidence impairments such as hearing impairment, visual impairment, deaf-blindness, traumatic brain injury, intellectual disability (moderate or severe), multiple disabilities, and some students with severe autism, orthopedic impairments and/or significant health issues; or based on substantial documentation by school building level personnel of any student suspected of being likely to injure him/herself or others. Screening activities should be completed during the evaluation for these students.

C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 35:900 (May 2009), effective July 1, 2009, amended LR 42:400 (March 2016).

### **Chapter 5. Evaluation Responsibilities**

#### **§511. Evaluation Timelines**

- A. ...
- End of the Year Extension. If the LEA begins an evaluation and there are fewer than 60 business days remaining in the LEA's current school year, the LEA may

take this type of extension with parent permission. However, the number of days used between the parental signature and June 1 (the SER official beginning date for summer) will be subtracted from the 60 business days, and the timelines will begin again on September 1 (the SER official ending date for summer).

A.2. - B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 35:902 (May 2009), effective July 1, 2009, amended LR 42:400 (March 2016).

### **Chapter 7. Disabilities**

#### **§711. Intellectual Disability**

A. Definition. *Intellectual disability* means significantly sub average general intellectual functioning, existing concurrently with deficits in adaptive behavior and manifested during the developmental period that adversely affects a student's educational performance.

- In every case, determination of an intellectual disability shall be based on an assessment of a variety of factors including educational functioning, adaptive behavior, and past and current developmental functioning (e.g., indices of social, intellectual, adaptive, verbal, motor, language, emotional, and self-care development for age).

B. Criteria for Eligibility. Evidence of criteria listed in Paragraphs 1 through 5 must all be met.

- Documented evidence must show that evidence based intervention(s) implemented with fidelity did not significantly modify the areas of concern. The intervention(s) shall include operationally defined target behaviors, systematic measurement of the academic and/or social areas of concern, establishment of baseline, and monitoring of the student's response to the intervention. These results may not be available for students with low incidence impairments.

- For all students meeting the classification of intellectual disability as defined in Subparagraphs a through c, the degree of impairment shall be specified.

- The measured intelligence and adaptive behavior functioning of a student with an intellectual disability, mildly impaired generally falls between two and three standard deviations below the mean. The student's adaptive behavior functioning falls below age and cultural expectations and is generally commensurate with the assessed level of intellectual functioning.

- The measured intelligence and adaptive behavior functioning of a student with an intellectual disability, moderately impaired generally falls between three and four standard deviations below the mean. The student's adaptive behavior functioning falls below age and cultural expectations and is generally commensurate with the assessed level of intellectual functioning.

- The measured intelligence and adaptive behavior functioning of a student with an intellectual disability, severely impaired generally falls greater than four standard deviations below the mean. The student's adaptive behavior functioning falls below age and cultural expectations and is generally commensurate with the assessed level of intellectual functioning.

B.3. - D.5. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 35:909 (May 2009), effective July 1, 2009, amended LR 42:400 (March 2016).

**§713. Multiple Disabilities**

A. Definition. *Multiple disabilities* means concomitant impairments (such as intellectual disability-blindness, orthopedic impairment-deafness, autism-orthopedic impairment, or emotional disturbance intellectual disability), the combination of which causes such severe educational needs that they cannot be accommodated in special education programs solely for one of the impairments.

A.1. - D.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 35:909 (May 2009), effective July 1, 2009, amended LR 42:401 (March 2016).

**§717. Other Health Impairment**

A. - D. ...

1. a report of an examination, conducted within the previous 12 months from a physician or other licensed health care provider authorized by the state of Louisiana and qualified in accordance with their licensed scope of practice to assess and diagnose the student's health problems, giving not only a description of the impairment but also any implications for instruction and physical education. When the report indicates the student has a health condition requiring health technology, management or treatments including a special diet or medication or that the student needs assistance with activities of daily living, the school nurse or other qualified personnel will conduct a health assessment. For attention deficit disorder or attention deficit hyperactivity disorder, a diagnostic report from a physician or a nurse practitioner shall not be required.

2. - 4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 35:910 (May 2009), effective July 1, 2009, amended LR 42:401 (March 2016).

**§719. Specific Learning Disability**

A. Definition. *Specific learning disability* means a disorder in one or more of the basic psychological processes involved in understanding or in using language, spoken or written, that may manifest itself in the imperfect ability to listen, think, speak, read, write, spell, or to do mathematical calculations, including conditions such as perceptual disabilities, brain injury, minimal brain dysfunction, dyslexia, and developmental aphasia. Specific learning disability does not include learning problems that are primarily the result of visual, hearing, or motor disabilities, of intellectual disability, of emotional disturbance, or of environmental, cultural, or economic disadvantage.

B. Criteria for Eligibility. Evidence of criteria listed in Paragraphs 1, 2, 3, and 4 must be met:

1. the learning problems are not primarily the result of:

- a. visual, hearing, or motor disability;
- b. intellectual disability;

B.1.c. - D.4. ...

5. a psychological assessment shall be conducted by a certified school psychologist, when necessary, to rule out an intellectual disability;

6. - 7. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 35:911 (May 2009), effective July 1, 2009, amended LR 42:401 (March 2016).

**Chapter 15. Related Services**

**§1509. School Health Services and School Nurse Services**

A. - B.1.b. ...

c. A prescription from a physician or dentist or other licensed health care professional authorized by the state of Louisiana to practice in Louisiana or adjacent state and qualified in accordance with their licensed scope of practice prescribes the health treatment, technology, and/or health management that the student must have in order to function within the educational environment; or there is a documented need for a modification of his or her activities of daily living.

C. - C.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 35:922 (May 2009), effective July 1, 2009, amended LR 42:401 (March 2016).

Shan N. Davis  
Executive Director

1603#014

**RULE**

**Department of Environmental Quality  
Office of the Secretary  
Legal Division**

**Deletion of the Significant Monitoring Concentration  
for PM<sub>2.5</sub> (LAC 33:III.509)(AQ357ft)**

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary has amended the Air regulations, LAC 33:III.509 (Log #AQ357ft).

This Rule is identical to federal regulations found in 40 CFR 51.166 and 40 CFR 52.21, which are applicable in Louisiana. For more information regarding the federal requirement, contact the Regulation Development Section at (225) 219-3985 or P.O. Box 4302, Baton Rouge, LA 70821-4302. No fiscal or economic impact will result from the Rule. This Rule is promulgated in accordance with the procedures in R.S. 49:953(F)(3) and (4).

This Rule deletes the significant monitoring concentration (SMC) for PM<sub>2.5</sub> from Louisiana's Prevention of Significant Deterioration (PSD) program under LAC 33:III.509. LDEQ incorporated certain provisions of the Environmental Protection Agency's (EPA's) final rule entitled "Prevention of Significant Deterioration (PSD) for Particulate Matter Less Than 2.5 Micrometers (PM<sub>2.5</sub>)—Increments, Significant Impact Levels (SILs) and Significant Monitoring Concentration (SMC),"<sup>1</sup> including the SMC for PM<sub>2.5</sub>, into the Louisiana air quality regulations on December 20, 2012 (AQ328ft).



However, on January 22, 2013, the U.S. Court of Appeals for the D.C. Circuit found that EPA lacked the legal authority to adopt and use the PM<sub>2.5</sub> SMC to exempt permit applicants from the statutory requirement to compile and submit ambient monitoring data (*Sierra Club v. EPA*, No. 10-1413). Consequently, the vacated SMC for PM<sub>2.5</sub> was removed from the federal PSD rules, 40 CFR 51.166 and 40 CFR 52.21, on December 9, 2013, (78 FR 73698). At the same time, EPA also instructed permitting authorities to revise the numerical value of the PM<sub>2.5</sub> SMC to 0 µg/m<sup>3</sup> (or make equivalent changes) as soon as feasible. This rulemaking will delete the PM<sub>2.5</sub> SMC from LDEQ's PSD program.

The basis and rationale for this Rule are to delete the SMC for PM<sub>2.5</sub> from Louisiana's PSD program under LAC 33:III.509. This Rule meets an exception listed in R.S. 30:2019(D)(2) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required.

<sup>1</sup> 75 FR 64864, October 20, 2010

**Title 33**  
**ENVIRONMENTAL QUALITY**  
**Part III. Air**

**Chapter 5. Permit Procedures**

**§509. Prevention of Significant Deterioration**

A. -I.4. ...

5. The administrative authority may exempt a stationary source or modification from the requirements of Subsection M of this Section, with respect to monitoring for a particular pollutant, if:

a. the emissions increase of the pollutant from a new stationary source or the net emissions increase of the pollutant from a modification would cause, in any area, air quality impacts less than the following amounts;

Carbon monoxide	575 µg/m <sup>3</sup>	8-hour average
Nitrogen dioxide	14 µg/m <sup>3</sup>	annual average
Particulate matter	10 µg/m <sup>3</sup> of PM <sub>10</sub> 0 µg/m <sup>3</sup> of PM <sub>2.5</sub> <sup>1</sup>	24-hour average
Sulfur dioxide	13 µg/m <sup>3</sup>	24-hour average
Ozone	No <i>de minimis</i> air quality level is provided for ozone. However, any net increase of 100 tons per year or more of volatile organic compounds or nitrogen oxides subject to PSD would require the performance of an ambient impact analysis including the gathering of ambient air quality data.	
Lead	0.1 µg/m <sup>3</sup>	3-month average
Fluorides	0.25 µg/m <sup>3</sup>	24-hour average
Total reduced sulfur	10 µg/m <sup>3</sup>	1-hour average
Hydrogen sulfide	0.2 µg/m <sup>3</sup>	1-hour average
Reduced sulfur compounds	10 µg/m <sup>3</sup>	1-hour average

<sup>1</sup> No exemption is available with regard to PM<sub>2.5</sub>.

I.5.b. - AA.15.b. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended LR 14:348 (June 1988), LR 16:613 (July 1990), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 17:478 (May 1991), LR 21:170 (February 1995), LR 22:339 (May 1996), LR 23:1677 (December 1997), LR 24:654 (April 1998), LR 24:1284 (July 1998), repromulgated LR 25:259 (February 1999),

amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2447 (November 2000), LR 27:2234 (December 2001), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2437 (October 2005), LR 31:3135, 3156 (December 2005), LR 32:1600 (September 2006), LR 32:1843 (October 2006), LR 36:2556 (November 2010), LR 37:1148 (April 2011), repromulgated LR 37:1389 (May 2011), amended LR 37:1570 (June 2011), repromulgated LR 37:2146 (July 2011), amended by the Office of the Secretary, Legal Division, LR 38:3163 (December 2012), LR 39:1280 (May 2013), LR 42:402 (March 2016).

Herman Robinson, CPM  
General Counsel

1603#030

**RULE**

**Department of Environmental Quality**  
**Office of the Secretary**  
**Legal Division**

Offset Requirements in Specified Parishes  
(LAC 33:III.504)(AQ355)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary has amended the Air regulations, LAC 33:III.504 (AQ355).

This Rule revises the offset requirements that apply to certain projects in the Baton Rouge area (i.e., the parishes of Ascension, East Baton Rouge, Iberville, Livingston, and West Baton Rouge). Currently, if a physical change or change in the method of operation at an existing stationary source (with a potential to emit 50 tons per year (TPY) or more of NO<sub>x</sub>/VOC) will increase NO<sub>x</sub>/VOC emissions by 25 TPY or more, the owner/operator must determine the net emissions increase over the contemporaneous period. If the net emissions increase is 25 TPY or more, the owner/operator must provide NO<sub>x</sub>/VOC offsets for the project at a 1.1 to 1 ratio. This Rule revises the trigger values and offset ratio as follows:

**Netting Thresholds in Tons per Year for Significant Net  
Increases in VOC and NO<sub>x</sub> Emissions and Offset Ratio**

	VOC	NO <sub>x</sub>	Offset Ratio
Existing:	25	25	1.1 to 1
Proposed:	40	40	1.0 to 1

This Rule also establishes an exemption for pollution control projects. At present, the Baton Rouge area is designated as a marginal nonattainment area with respect to the 2008 8-hour national ambient air quality standard (NAAQS) for ozone (i.e., 75 parts per billion (ppb)). However, the design value of each ambient air monitor in the region is compliant with this NAAQS, and LDEQ has requested that EPA redesignate the area to attainment. LDEQ anticipates that EPA will approve LDEQ's request in early 2016.

On October 1, 2015, EPA revised the 8-hour ozone NAAQS to 70 ppb, a standard with which the Baton Rouge area does not currently comply. However, designations will not be enacted for up to 2 years from the date the new

standard is promulgated (see §107(d)(1)(B)(i) of the Clean Air Act). Thus, during the period between the effective date of the area's redesignation to attainment of the 2008 ozone NAAQS and that of its (potential) nonattainment designation with respect to the 2015 ozone NAAQS, offsets will not be required by the Clean Air Act.

However, LDEQ has elected to retain the offset requirements under LAC 33:III.504.M as an anti-backsliding measure, but align the netting and significant net increase trigger values with those for marginal nonattainment areas (cf. Table 1 of LAC 33:III.504.L), set the offset ratio at 1.0 to 1, and establish an exemption for NO<sub>x</sub> and VOC increases that are a direct result of, and incidental to, the installation of abatement equipment or implementation of a control technique designed to control emissions of another pollutant. The basis and rationale for this Rule are to revise the offset requirements that apply to projects in the Baton Rouge area. This Rule meets an exception listed in R.S. 30:2019(D)(2) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required.

**Title 33  
ENVIRONMENTAL QUALITY**

**Part III. Air**

**Chapter 5. Permit Procedures**

**§504. Nonattainment New Source Review (NNSR)  
Procedures and Offset Requirements in  
Specified Parishes**

A. - L. ...

\* \* \*

M. Offset Requirements in Specified Parishes. Except as provided in Paragraph M.4 of this Section, the provisions of this Subsection shall apply to stationary sources located in the parishes of Ascension, East Baton Rouge, Iberville, Livingston, and West Baton Rouge if the parish's designation with respect to the 8-hour national ambient air quality standard (NAAQS) for ozone is attainment, marginal nonattainment, or moderate nonattainment.

1. ...

2. Existing Stationary Sources

a. Consideration of the net emissions increase shall be triggered for any physical change or change in the method of operation that would increase emissions of VOC or NO<sub>x</sub> by 40 tons per year or more, without regard to any project decreases.

b. The owner or operator of an existing stationary source with a potential to emit 50 tons per year or more of VOC shall provide VOC offsets for each physical change or change in the method of operation that would result in a net emissions increase of 40 tons per year or more of VOC.

c. The owner or operator of an existing stationary source with a potential to emit 50 tons per year or more of NO<sub>x</sub> shall provide NO<sub>x</sub> offsets for each physical change or change in the method of operation that would result in a net emissions increase of 40 tons per year or more of NO<sub>x</sub>.

3. Offsets shall be required at a ratio of 1.0 to 1.

4. ...

5. The provisions of this Subsection shall not apply to any increase in NO<sub>x</sub> or VOC emissions that is a direct result of and incidental to the:

a. installation of abatement equipment or implementation of a control technique required to comply with another state or federal regulation, consent decree, or other enforcement action; or

b. voluntary installation of a pollution control project on an existing emissions unit that reduces emissions of air pollutants from such unit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 19:176 (February 1993), repromulgated LR 19:486 (April 1993), amended LR 19:1420 (November 1993), LR 21:1332 (December 1995), LR 23:197 (February 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2445 (November 2000), LR 27:2225 (December 2001), LR 30:752 (April 2004), amended by the Office of Environmental Assessment, LR 30:2801 (December 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2436 (October 2005), LR 31:3123, 3155 (December 2005), LR 32:1599 (September 2006), LR 33:2082 (October 2007), LR 34:1890 (September 2008), LR 37:1568 (June 2011), LR 38:1232 (May 2012), amended by the Office of the Secretary, Legal Division, LR 38:2766 (November 2012), LR 41:2134 (October 2015), LR 42:403 (March 2016).

Herman Robinson, CPM  
General Counsel

1603#029

**RULE**

**Office of the Governor**

**Capital Area Ground Water Conservation Commission**

Pumpage Fees (LAC 56:V.1103)

The Board of Commissioners of the Capital Area Ground Water Conservation District, which consists of the parishes of East and West Baton Rouge, East and West Feliciana, and Pointe Coupee, has increased the pumping charges for non-exempt ground water users from \$5 per million gallons of water pumped to \$10 per million gallons of water pumped. The board has determined that this increase is necessary to fund a study projecting saltwater intrusion into groundwater in order to determine preventive measures. The Capital Area Groundwater Conservation District plans to install several exploratory wells 2,000 feet below the surface (2,000-foot sand) to determine the location of saltwater and the best location for a saltwater scavenger well. This action is in accordance with *Louisiana Revised Statutes* 38:3076(14) and 38:3079.

**Title 56**

**PUBLIC WORKS**

**Part V. Capital Area Ground Water Conservation  
Commission**

**Chapter 11. Determination of and Payment of Accounts  
§1107. Pumpage Fee**

A. The pumping charges for ground water users shall be \$10 per million gallons and is to be paid quarterly.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:3076(14) and 38:3079.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Capital Area Ground Water Conservation Commission, LR 1:291 (July 20, 1975, amended LR 10:592 (August 1984), LR 34: effective January 1, 1985, repromulgated LR 33:2649 (December 2007), amended LR 34:435 (March 2008), effective April 1, 2008, LR 39:486 (March 2013), LR 42:403 (March 2016).

Anthony J. Duplechin  
Director

1603#038

## RULE

### Department of Health and Hospitals Board of Embalmers and Funeral Directors

License, Internship, Inspection, Fees  
(LAC 46:XXXVII.707, 901, 903, 905, 909, 1107, and 2001)

The Board of Embalmers and Funeral Directors has amended LAC 46:XXXVII, Chapters 7, 9, 11 and 20 pursuant to the authority granted by R.S. 37:840 in accordance with the provisions of the Administrative Procedure Act, adding provisions to rules, regulations, and procedures relative to providing useful guidance and information for the purpose of improving regulatory compliance and to enhance the understanding of these changes.

#### Title 46

### PROFESSIONAL AND OCCUPATIONAL STANDARDS

#### Part XXXVII. Embalmers and Funeral Directors

##### Chapter 7. License

##### §707. Reciprocal License Requirements

A. Any person desiring a temporary license for an embalmer and funeral director or funeral director license shall, before practicing, make application on forms furnished by the board. Said application shall be accompanied by a temporary license fee as established by the board, which is not refundable. If applicant meets all requirements, the secretary shall issue a temporary license. The board cannot, at its discretion, extend the temporary license period.

B.1. - C. Repealed.

D.1. The temporary license entitles the licensee to practice embalming and/or funeral directing in this state. However, it shall become null and void if the original license is revoked, suspended, or lapsed.

2. - 3. Repealed.

AUTHORITY NOTE: Adopted in accordance with R.S. 37:840 and R.S. 37:842.

HISTORICAL NOTE: Adopted by the Department of Health and Human Resources, Board of Embalmers and Funeral Directors, August 1966, amended LR 11:688 (July 1985), amended by the Department of Health and Hospitals, Board of Embalmers and Funeral Directors, LR 30:2821 (December 2004), LR 42:404 (March 2016).

##### §709. Continuing Education

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:840.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Embalmers and Funeral Directors, LR 20:1378 (December 1994), repromulgated LR 21:175 (February 1995), amended by 2004 Regular Session, House Concurrent

Resolution No. 10, LR 30:2990 (December 2004), amended by the Department of Health and Hospitals, Board of Embalmers and Funeral Directors, LR 30:2822 (December 2004), repromulgated LR 31:1018 (April 2005), repealed LR 42:404 (March 2016).

#### Chapter 9. Internship

##### §901. Requirements for Combination License

A. Any person desiring to engage in the practice of embalming and funeral directing in this state, except those holding a temporary license, shall serve as an intern within the state of Louisiana.

1. - 5. Repealed.

6. The employment of the intern at the funeral home may be verified by the board. Verification of employment will be made by presenting the quarterly returns submitted either to the Internal Revenue Service or the Louisiana Department of Revenue and Taxation, or, alternatively, some other official form used to verify employment which is acceptable to the board.

7. - 9. Repealed.

10. Any internship shall be considered stale/null and void and unavailable for consideration after the passage of 10 years.

11. The board-registered supervisor shall certify or verify the cases and the contact hours that the intern worked during the month.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:840.

HISTORICAL NOTE: Adopted by the Department of Health and Human Resources, Board of Embalmers and Funeral Directors, August 1966, promulgated LR 5:277 (September 1979), amended by the Department of Health and Hospitals, Board of Embalmers and Funeral Directors, LR 15:10 (January 1989), LR 16:769 (September 1990), LR 30:2823 (December 2004), LR 34:2400 (November 2008), LR 42:404 (March 2016).

##### §903. Requirements for Funeral Director License

A. Any person desiring to engage in the practice of funeral directing within this state, except those holding a temporary license, shall serve as an intern within the state of Louisiana.

1. - 5. Repealed.

6. The employment of the intern at the funeral home may be verified by the board. Verification of employment will be made by presenting the quarterly returns submitted either to the Internal Revenue Service or the Louisiana Department of Revenue and Taxation, or, alternatively, some other official form used to verify employment which is acceptable to the board.

7. - 9. Repealed.

10. Any internship shall be considered stale/null and void and unavailable for consideration after the passage of 10 years.

11. The board-registered supervisor shall certify or verify the cases and the contact hours that the intern worked during the month.

AUTHORITY NOTE: Adopted in accordance with R.S. 37:840.

HISTORICAL NOTE: Adopted by the Department of Health and Human Resources, Board of Embalmers and Funeral Directors, August 1966, amended March 1974, promulgated LR 5:278 (September 1979), amended by the Department of Health and Hospitals, Board of Embalmers and Funeral Directors, LR 15:10 (January 1989), LR 19:744 (June 1993), LR 30:2823 (December 2004), LR 34:2400 (November 2008), LR 42:404 (March 2016).

§905. Application; Fee

A. Each intern shall make application to the board on prescribed forms, accompanied by a fee as established by the board and if found acceptable shall be registered as such and given an identification slip.

AUTHORITY NOTE: Adopted in accordance with R.S. 37:840.

HISTORICAL NOTE: Adopted by the Department of Health and Human Resources, Board of Embalmers and Funeral Directors, August 1966, amended March 1974, promulgated LR 5:278 (September 1979), amended LR 11:687 (July 1985), amended by the Department of Health and Hospitals, Board of Embalmers and Funeral Directors, LR 30:2824 (December 2004), LR 42:405 (March 2016).

§907. Affidavits Required

A. When tenure of internship is completed, an affidavit by both the intern and the person under whose supervision he or she served, shall be filed not later than 15 days with the board. Said affidavit shall list the number of bodies embalmed and/or funerals assisted in and the contact hours served.

AUTHORITY NOTE: Adopted in accordance with R.S. 37:840.

HISTORICAL NOTE: Adopted by the Department of Health and Human Resources, Board of Embalmers and Funeral Directors, August 1966, amended March 1974, promulgated LR 5:278 (September 1979), repromulgated by the Department of Health and Hospitals, Board of Embalmers and Funeral Directors, LR 30:2824 (December 2004), amended LR 42:405 (March 2016).

§909. Notification to Licensed Person

A. The secretary of the board, upon notification by the applicant, will inform the licensed person responsible for the supervision and the training of the intern of the rules and regulations concerning the internship and that he will be responsible to the board for the application and enforcement of these rules and regulations.

B. Repealed.

C. Each intern is required to file a complete case report for each individual case handled during the internship which must be signed by the individual licensee who was supervisor of that case and must also file a monthly report providing the board with a summary of the cases worked during that period which shall be signed by the licensee designated as the supervisor of the intern. The report is due on the tenth day of the month and delinquent on the fifteenth day. Delinquent reports may result in the loss of credit for that month.

1. It shall be a requirement and responsibility of the intern to make these reports monthly and to have them in the Office of the Secretary on the date specified. Failure of the licensed supervisor to perform as agreed or to in any way falsify the records of the internship will cause a fine to be levied in accordance with the provisions of R.S. 37:850 for said violation.

AUTHORITY NOTE: Adopted in accordance with R.S. 37:840.

HISTORICAL NOTE: Adopted by the Department of Health and Human Resources, Board of Embalmers and Funeral Directors,

August 1966, promulgated LR 5:278 (September 1979), amended LR 11:946 (October 1985), amended by the Department of Health and Hospitals, Board of Embalmers and Funeral Directors, LR 15:11 (January 1989), LR 30:2824 (December 2004), LR 42:405 (March 2016).

Chapter 11. Funeral Establishments

§1107. Inspection

A. - B.2. ...  
a. floors of tile, cement, linoleum, or like composition, finished with a glazed surface or epoxy flooring;

B.2.b. - F. ...  
AUTHORITY NOTE: Promulgated in accordance with R.S. 37:840.

HISTORICAL NOTE: Adopted by the Department of Health and Human Resources, Board of Embalmers and Funeral Directors, August 1966, amended November 1972, February 1973, amended and promulgated LR 4:227 (June 1978), amended LR 4:295 (August 1978), LR 4:356 (September 1978), LR 5:278 (September 1979), amended by the Department of Health and Hospitals, Board of Embalmers and Funeral Directors, LR 20:191 (February 1994), LR 20:1380 (December 1994), LR 30:2825 (December 2004), LR 42:405 (March 2016).

Chapter 20. Fees

§2001. Fees

A. The board shall require payment of fees hereunder as follows:

1. - 11. ...  
12. a fee of \$100 from each person applying for a temporary license within this state;  
13. - 14. ....

AUTHORITY NOTE: Adopted in accordance with R.S. 37:840 and 37:845.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Embalmers and Funeral Directors, LR 30:2828 (December 2004), amended LR 42:405 (March 2016).

Kim W. Michel  
Executive Director

1603#002

RULE

Department of Health and Hospitals  
Board of Nursing

Licensure as an Advanced Practice Registered Nurse  
(LAC 46:XLVII.4507)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and through the authority granted in R.S. 37:918, the Louisiana State Board of Nursing (LSBN) is amending §4507 in Chapter 45. The Rule changes allows the Louisiana State Board of Nursing the ability to provide an opportunity for APRNs that have acquired licensure by alternative methods to go before the board and explain and/or justify why the Louisiana State Board of Nursing should extend licensure opportunities to him/her.

**Title 46**  
**PROFESSIONAL AND OCCUPATIONAL**  
**STANDARDS**

**Part XLVII. Nurses: Practical Nurses and Registered Nurses**

**Subpart 2. Registered Nurses**

**Chapter 45. Advanced Practice Registered Nurses**

**§4507. Licensure as Advanced Practice Registered Nurse**

- A. Initial Licensure
1. The applicant shall meet the following requirements:
    - a. - b.ii. ...
    - c. any deviation from Clause 1.b shall be submitted to the board for review and approval;
    - d. submission of a completed application on a form furnished by the board;
    - e. submission of evidence of current certification in the respective advanced practice nursing role and population focus by a nationally recognized certifying body approved by the board;
    - f. submission of a non-refundable fee as specified in LAC 46:XLVII.3341;
    - g. submission to criminal history record information as specified in LAC 46:XLVII.3330;
    - h. after initial licensure, applicants seeking licensure for advanced practice in an additional specialty and/or functional role shall meet the requirements stated in LAC 46:XLVII.4507.A.1.a-d;
    - i. if there is a gap equal to or greater than two years between the completion of the graduate or post graduate program as delineated in LAC 46:XLVII.4507.A.1.b and the application for initial licensure, the applicant must provide additional verification of competency as requested by the board and may be required to appear before the board (or its committee) for further consideration before licensure or a temporary permit may be granted.

A.2. - F.4. ...  
AUTHORITY NOTE: Promulgated in accordance with R.S. 37:918.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Nursing, LR 22:281 (April 1996), amended LR 27:724 (May 2001), LR 29:580 (April 2003), LR 31:1340 (June 2005), LR 31:2015 (August 2005), LR 32:247 (February 2006), LR 37:3027 (October 2011), LR 40:61 (January 2014), LR 42:406 (March 2016).

Karen C. Lyon  
Executive Director

1603#011

**RULE**

**Department of Health and Hospitals**  
**Bureau of Health Services Financing**

Inpatient Hospital Services  
Non-Rural, Non-State Hospitals  
Reinstatement of Additional Payments for  
Hemophilia Blood Products (LAC 50:V.965)

The Department of Health and Hospitals, Bureau of Health Services Financing has amended LAC 50:V.965 in

the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

**Title 50**  
**PUBLIC HEALTH—MEDICAL ASSISTANCE**  
**Part V. Hospital Services**  
**Subpart 1. Inpatient Hospitals**

**Chapter 9. Non-Rural, Non-State Hospitals**

**Subchapter B. Reimbursement Methodology**

**§965. Hemophilia Blood Products**

A. Effective for dates of service on or after July 1, 2015, the Department of Health and Hospitals shall provide additional reimbursements to certain non-rural, non-state acute care hospitals for the extraordinary costs incurred in purchasing blood products for certain Medicaid recipients diagnosed with, and receiving inpatient treatment for hemophilia.

- B. - B.1. ...
2. have provided clotting factors to a Medicaid recipient who:
    - a. has been diagnosed with hemophilia or other rare bleeding disorders for which the use of one or more clotting factors is Food and Drug Administration (FDA) approved; and
    - b. has been hospitalized at the qualifying hospital for a period exceeding six days; and

3. - 3.a. ...

C. Reimbursement. Hospitals who meet the qualifications in §965.B may receive reimbursement for their actual costs that exceed \$50,000 if the hospital submits a request for reimbursement to the Medicaid Program within 180 days of the patient's discharge from the hospital.

1. ...  
AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:2176 (October 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:674 (April 2009), LR 42:406 (March 2016).

Rebekah E. Gee MD, MPH  
Secretary

1603#069

**RULE**

**Department of Health and Hospitals**  
**Bureau of Health Services Financing**

Inpatient Hospital Services  
Public-Private Partnerships  
Supplemental Payments  
(LAC 50:V.Chapter 17)

The Department of Health and Hospitals, Bureau of Health Services Financing has adopted LAC 50:V.Chapter 17 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

**Title 50**  
**PUBLIC HEALTH—MEDICAL ASSISTANCE**  
**Part V. Hospital Services**  
**Subpart 1. Inpatient Hospital Services**  
**Chapter 17. Public-Private Partnerships**  
**§1701. Baton Rouge Area Hospitals**

A. Qualifying Criteria. Effective for dates of service on or after April 15, 2013, the department shall provide supplemental Medicaid payments for inpatient hospital services rendered by non-state privately owned hospitals in the Baton Rouge Area that meet the following conditions.

1. The hospital must be a non-state privately owned and operated hospital that enters into a cooperative endeavor agreement with the Department of Health and Hospitals to increase its provision of inpatient Medicaid and uninsured hospital services by:
  - a. assuming the management and operation of services at a facility where such services were previously provided by a state owned and operated facility; or
  - b. providing services that were previously delivered and terminated or reduced by a state owned and operated facility.

B. Reimbursement Methodology

1. Payments shall be made quarterly based on the annual upper payment limit calculation per state fiscal year.
2. Payments shall not exceed the allowable Medicaid charge differential. The Medicaid inpatient charge differential is the Medicaid inpatient charges less the Medicaid inpatient payments (which includes both the base payments and supplemental payments).
  - a. The payments will be made in four equal quarterly payments based on 100 percent of the estimated charge differential for the state fiscal year.
3. The qualifying hospital will provide quarterly reports to the department that will demonstrate that, upon implementation, the annual Medicaid inpatient payments do not exceed the annual Medicaid inpatient charges per 42 CFR 447.271. The department will verify the Medicaid claims data of these interim reports using the state's MMIS system. When the department receives the annual cost report as filed, the supplemental calculations will be reconciled to the cost report.
4. If there is additional cap room, an adjustment payment will be made to assure that supplemental payments are the actual charge differential. The supplemental payments will also be reconciled to the final cost report.
5. The annual supplemental payments will not exceed the allowable Medicaid inpatient charge differential per 42 CFR 447.271, and the maximum inpatient Medicaid payments shall not exceed the upper limit per 42 CFR 447.272.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 42:407 (March 2016).

Rebekah E. Gee MD, MPH  
 Secretary

1603#070

**RULE**  
**Department of Health and Hospitals**  
**Bureau of Health Services Financing**

Outpatient Hospital Services—Public-Private Partnerships  
 Supplemental Payments (LAC 50:V.Chapter 67)

The Department of Health and Hospitals, Bureau of Health Services Financing has adopted LAC 50:V.Chapter 67 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

**Title 50**  
**PUBLIC HEALTH—MEDICAL ASSISTANCE**  
**Part V. Hospital Services**  
**Subpart 5. Outpatient Hospital Services**  
**Chapter 67. Public-Private Partnerships**  
**§6701. Baton Rouge Area Hospitals**

A. Qualifying Criteria. Effective for dates of service on or after April 15, 2013, the department shall provide supplemental Medicaid payments for outpatient hospital services rendered by non-state privately owned hospitals that meet the following conditions.

1. Qualifying Criteria. The hospital must be a non-state privately owned and operated hospital that enters into a cooperative endeavor agreement with the Department of Health and Hospitals to increase its provision of outpatient Medicaid and uninsured hospital services by:
  - a. assuming the management and operation of services at a facility where such services were previously provided by a state owned and operated facility; or
  - b. providing services that were previously delivered and terminated or reduced by a state owned and operated facility.

B. Reimbursement Methodology

1. Payments shall be made quarterly based on the annual upper payment limit calculation per state fiscal year.
2. For SFY 2013, this payment shall be \$2,109,589, and for each state fiscal year starting with SFY 2014, this payment shall be \$10,000,000, not to exceed the upper payment limits pursuant to 42 CFR 447.321.
3. Maximum payments shall not exceed the upper payment limit pursuant to 42 CFR 447.321.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 42:407 (March 2016).

Rebekah E. Gee MD, MPH  
 Secretary

1603#071

## RULE

### Department of Health and Hospitals Office of Public Health

Sanitary Code/Water Supplies  
Minimum Disinfectant Residual  
Levels in Public Water Systems  
(LAC 51:XII.311, 355, 357, 358, 361, 363, 367,  
903, 1102, 1105, 1113, 1117, 1119, 1125,  
1133, 1135, 1139, 1503, 1903, and 1907)

Under the authority of R.S. 40:4 and 40:5 and in accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the state health officer, acting through the Department of Health and Hospitals, Office of Public Health (DHH-OPH), has amended Part XII (Water Supplies) of the Louisiana state *Sanitary Code* (LAC 51). The amendments to Part XII are necessary to protect the public from water provided by public water systems that may be contaminated with *Naegleria fowleri* (brain-eating amoeba) parasite.

In accordance with the intent of Act 573 of 2014 and HCR 54 of 2015, the state health officer, through DHH-OPH, has promulgated a Rule that finalizes the requirements of the Emergency Rule (the “ER”) concerning disinfection of public water systems initially promulgated on November 6, 2013, and presently in effect as a result of subsequent re-promulgation. This Rule maintains the requirements of the ER and strengthens monitoring requirements for public water systems using chloramine disinfection. This Rule maintains the ER’s required minimum disinfection residual level of 0.5 milligrams per liter (mg/L) for public water systems. Furthermore, this Rule maintains the ER’s 25 percent increase to the number of required disinfectant residual measurements taken monthly or quarterly. The ER requires public water systems using surface water source to provide public notice upon the second consecutive month having disinfectant residuals less than 0.5 mg/L in over 5.0 percent of the measurements taken each month. This Rule keeps that public notification requirement for surface water systems and extends that public notification requirement to public water systems using ground water. This Rule also requires public water systems using chloramines as a disinfectant to monitor for nitrification, and to take corrective action as needed, in accordance with an approved nitrification plan. This nitrification plan requirement is based on DHH’s confirmation of nitrification occurring in the distribution systems of the affected public water systems at the time of the above-mentioned amoeba detections. This Rule is supported by scientific data and recommendations from the federal Centers for Disease Control and Prevention (CDC) relative to the control of the *Naegleria fowleri* parasite, which has thus far been found in seven public water systems within Louisiana.

For the reasons set forth above, Part XII (Water Supplies) of the Louisiana state *Sanitary Code* (LAC 51:XII) has been amended as follows.

## Title 51

### PUBLIC HEALTH—SANITARY CODE

#### Part XII. Water Supplies

##### Chapter 3. Water Quality Standards

##### §311. Records

[formerly paragraph 12:003-2]

A. Complete daily records of the operation of a public water system, including reports of laboratory control tests and any chemical test results required for compliance determination, shall be kept and retained as prescribed in the national primary drinking water regulations on forms approved by the state health officer. When specifically requested by the state health officer or required by other requirements of this Part, copies of these records shall be provided to the office designated by the state health officer within 10 days following the end of each calendar month. Additionally, all such records shall be made available for review during inspections/sanitary surveys performed by the state health officer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(8) and 40:5(2)(3)(5)(6)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1321 (June 2002), amended LR 30:1195 (June 2004), LR 42:408 (March 2016).

##### §355. Mandatory Disinfection

[formerly paragraph 12:021-1]

A. Routine, continuous disinfection is required of all public water systems.

1. Where a continuous chloramination (i.e., chlorine with ammonia addition) method is used, water being delivered to the distribution system shall contain a minimum concentration of 0.5 mg/l of chloramine residual (measured as total chlorine).

2. Where a continuous free chlorination method is used, water being delivered to the distribution system shall contain a minimum concentration of free chlorine residual in accordance with the following table.

Table 355.A.2	
pH Value	Free Chlorine Residual
up to 7.0	0.5 mg/l
7.0 to 8.0	0.6 mg/l
8.0 to 9.0	0.8 mg/l
over 9.0	1.0 mg/l

a. Table 355.A.2 does not apply to systems using chloramines.

b. pH values shall be measured in accordance with the methods set forth in §1105.D. of this Part.

B. - C. ....

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(8)(13) and R.S. 40:5(2)(3)(5)(6)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1326 (June 2002), amended LR 28:2514 (December 2002), LR 35:1240 (July 2009), LR 38:2376 (September 2012), LR 42:408 (March 2016).

**§357. Minimum Disinfection Residuals**  
**[formerly paragraph 12:021-2]**

A. Disinfection equipment shall be operated to maintain disinfectant residuals in each finished water storage tank and at all points throughout the distribution system at all times in accordance with the following minimum levels:

1. a free chlorine residual of 0.5 mg/l; or
2. a chloramine residual (measured as total chlorine) of 0.5 mg/l for those systems that feed ammonia.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(8)(13) and R.S. 40:5(2)(3)(5)(6)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1327 (June 2002), amended LR 42:409 (March 2016).

**§358. Treatment Technique Requirement**

A. Unless holding a valid variance from mandatory disinfection, each public water system using ground water as its source of water supply shall incur a treatment technique violation when it fails to comply with the minimum residual disinfectant concentration (0.5 mg/l free chlorine or total chlorine) in more than 5.0 percent of the samples collected each month from the distribution system for any two consecutive months. Upon the determination that a treatment technique violation has occurred, the public water system shall provide tier 2 public notification in accordance with §1907.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(8)(13) and R.S. 40:5(2)(3)(5)(6)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 42:409 (March 2016).

**§361. Implementation of Disinfection Requirements**

A. A public water system not holding a disinfection variance on November 6, 2013 shall comply with the requirements of §355.A, §357, §367.C, and §367.G of this Part on the later of:

1. February 1, 2014; or
2. the expiration date of any additional time for compliance beyond February 1, 2014 granted by the state health officer. A request for additional time may be submitted in writing prior to February 1, 2014 only, and shall provide detailed justification and rationale for the additional time requested. The state health officer may grant such additional time if significant infrastructure improvements are required to achieve compliance with said requirements.

B. A public water system holding a disinfection variance on November 6, 2013 shall comply with one of the following options by February 1, 2014:

1. implement continuous disinfection that complies with the requirements of §355.A, §357, §367.C, and §367.G of this Part;

2. request additional time for complying with the requirements of §355.A, §357, §367.C, and §367.G of this Part by submitting a written request, if significant infrastructure improvements are required to achieve compliance therewith or extraordinary circumstances exist with regard to the introduction of disinfection to the system. Such written request shall provide detailed justification and rationale for the additional time requested;

3. (This option shall be available only if the public water system's potable water distribution piping is utilized

for onsite industrial processes.) notify the state health officer in writing that in lieu of implementing continuous disinfection, the public water system has provided, and will thereafter provide on a quarterly basis, notification to all system users, in a manner compliant with §1907 of this Part, that the system does not disinfect its water. The notification shall state that because the water is not disinfected, the water quality is unknown in regard to the *Naegleria fowleri* amoeba. A public water system selecting this option must sign an acknowledgement form, to be developed by the state health officer, stating that the public water system understands the risks presented by the lack of disinfection and that the public water system maintains responsibility for ensuring the safety of its water for end users; or

4. (This option shall be available only if the public water system's potable water distribution piping is utilized for onsite industrial processes.) request approval of an alternate plan providing water quality and public health protection equivalent to the requirements of §355.A and §357 of this Part. The state health officer may approve such a plan only if it is supported by peer reviewed, generally accepted research and science.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(8)(13) and R.S. 40:5(2)(3)(5)(6)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 42:409 (March 2016).

**§363. Revocation of Variances**

**[formerly paragraph 12:021-5]**

A. A variance from mandatory disinfection shall be revoked when a public water system has a bacteriological MCL violation. When a variance is revoked, the system shall install mandatory continuous disinfection as stated in §355 of this Part within the times specified in a compliance schedule submitted to and approved by the state health officer. Such schedule shall be submitted within 10 days of receipt of notice of revocation.

B. Except for variances held by qualifying public water systems that comply with §361.B.3 of this Part or receive approval of an alternate plan under §361.B.4 of this Part, any variance concerning the mandatory disinfection requirements of §355 and/or §357 of this Part held by a public water system as of November 6, 2013 shall be automatically revoked on the later of:

1. February 1, 2014;
2. the expiration date of any additional time for compliance granted by the state health officer under §361.B.2 of this Part; or
3. the denial of a request for approval of an alternate plan submitted under §361.B.4 of this Part.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(8)(13) and R.S. 40:5(2)(3)(5)(6)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1327 (June 2002), amended LR 42:409 (March 2016).

**§367. Disinfectant Residual Monitoring and Record Keeping**

**[formerly paragraph 12:021-7]**

A. Disinfectant Residual Monitoring in Treatment Plant. A public water system shall measure the residual disinfectant concentration in water being delivered to the distribution system at least once per day.



B. Disinfectant Residual Monitoring in Distribution System. A public water system shall measure the residual disinfectant concentration within the distribution system:

1. by sampling at the same points in the distribution system and at the same times that samples for total coliforms are required to be collected by the public water system under this Part;

2. by sampling at an additional number of sites calculated by multiplying 0.25 times the number of total coliform samples the public water system is required under this Part to take on a monthly or quarterly basis, rounding any mixed (fractional) number product up to the next whole number. These additional residual monitoring samples shall be taken from sites in low flow areas and extremities in the distribution system at regular time intervals throughout the applicable monthly or quarterly sampling period; and

3. by sampling at the site that represents the maximum residence time (MRT) in the distribution system at least once per day.

C. A public water system shall increase sampling to not less than daily at any site in the distribution system that has a measured disinfectant residual concentration of less than 0.5 mg/l free chlorine or 0.5 mg/l chloramine residual (measured as total chlorine) until such disinfectant residual concentration is achieved at such site.

D. The records of the measurement and sampling required under Subsections A and B of this Section shall be maintained on forms approved by the state health officer and shall be retained as prescribed in the national primary drinking water regulations, and shall be made available for review upon request by the state health officer.

E. Each public water system shall submit a monitoring plan to the state health officer for review and approval. The monitoring plan shall be submitted in a format approved by the state health officer and shall include all the total coliform and disinfectant residual monitoring sites required under this Section and §903.A of this Part. All monitoring sites shall be identified along with a 911 street address, a latitude/longitude coordinate, and a brief description of the site location. A public water system in existence as of November 6, 2013 shall submit such a monitoring plan no later than January 1, 2014 and shall update the monitoring plan as requested by the state health officer and/or as monitoring sites change.

F. Chlorine residuals shall be measured in accordance with the analytical methods set forth in §1105.C of this Part.

G. Where a continuous chloramination (i.e., chlorine with ammonia addition) method is used or where water that is provided to customers contains chloramines, a nitrification control plan shall be developed and submitted to the state health officer. A public water system in existence as of November 6, 2013 shall submit and comply with such a nitrification control plan no later than January 1, 2017. The plan shall conform to the guidelines contained in industry standards such as the American Water Works Association's *M56 Manual on Nitrification* and contain at least the following information:

1. at a minimum, the following parameters shall be monitored and recorded in accordance with the following:

a. free ammonia at least once per week in water being delivered to the distribution system (i.e., point of entry) unless an alternate measurement or method is approved by the state health officer;

b. nitrite at least once per quarter and in response to an action level trigger within the distribution system at sites prone to nitrification such as storage tanks and low flow areas;

2. a response plan with expected water quality ranges and action levels to control nitrification and ensure compliance with §357 of this Part.

H. Public water systems utilizing chloramination shall review and update the nitrification control plan required under Subsection G of this Section as requested by the state health officer.

1. In addition, the nitrification control plan and monitoring results shall be retained on-site for a minimum of five years and shall be made available to the state health officer upon request and/or when the public water system fails to comply with §357 of this Part.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(8)(13) and 40:5(2)(3)(5)(6)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1327 (June 2002), amended LR 30:1195 (June 2004), LR 42:409 (March 2016).

## **Chapter 9. Louisiana Total Coliform Rule [formerly Appendix C]**

### **§903. Coliform Routine Compliance Monitoring [formerly Coliform Routine Compliance Monitoring of Appendix C]**

A. Public water systems shall collect routine total coliform samples at sites which are representative of water throughout the distribution system in accordance with a monitoring plan approved by the state health officer. Each public water system shall submit a monitoring plan in a format approved by the state health officer. The monitoring plan shall include a minimum number of point of collection (POC) monitoring sites calculated by multiplying 1.5 times the minimum number of samples required to be routinely collected in accordance with Subsections C and D of this Section, rounding any mixed (fractional) number product up to the next whole number. The monitoring plan shall include a map of the system with each POC sampling site identified along with a 911 street address, a latitude/longitude coordinate, and a brief description of the site location. In accordance with requirements of Subsection E of this Section, the plan shall also indicate how the public water system will alternate routine sampling between all of the approved POC sampling sites.

B. - D. ...

E. Unless the state health officer specifies otherwise, the public water supply shall collect routine samples at regular time intervals throughout the month and shall alternate routine sampling between all of the approved POC sites. Routine samples shall not be collected from the same POC more than once per month.

F. - G. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(8)(13) and 40:5(2)(3)(5)(6)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1333 (June 2002), amended LR 42:410 (March 2016).

## Chapter 11. Surface Water Treatment Rule

### Subchapter A. General Requirements and Definitions

#### §1102. Relationship with this Part

A. In those instances where the requirements of this Chapter are stricter than or conflict with the requirements of this Part generally, a public water system utilizing surface water or ground water under the direct influence of surface water (GWUDISW) shall comply with the requirements of this Chapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(8)(13) and R.S. 40:5(2)(3)(5)(6)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 42:411 (March 2016).

#### §1105. Analytical Requirements

A. Analysis for total coliform, fecal coliform, or HPC which may be required under this Chapter shall be conducted by a laboratory certified by DHH to do such analysis. Until laboratory certification criteria are developed, laboratories certified for total coliform analysis by DHH are deemed certified for fecal coliform and HPC analysis.

B. - B.3. ...

C. Public water systems shall conduct analysis for applicable residual disinfectant concentrations in accordance with one of the analytical methods in Table 1.

Table 1				
Residual	Methodology	Standard Methods <sup>1</sup>	ASTM Methods <sup>2</sup>	Other Methods
Free Chlorine	Amperometric Titration	4500-Cl D, 4500-Cl D-00	D 1253-03	
	DPD Ferrous Titrimetric	4500-Cl F, 4500-Cl F-00		
	DPD Colorimetric	4500-Cl G, 4500-Cl G-00		
	Syringaldazine (FACTS)	4500-Cl H, 4500-Cl H-00		
	On-line Chlorine Analyzer			EPA 334.0 <sup>3</sup>
	Amperometric Sensor			ChloroSense <sup>4</sup>
Total Chlorine	Amperometric Titration	4500-Cl D, 4500-Cl D-00	D 1253-03	
	Amperometric Titration (low level measurement)	4500-Cl E, 4500-Cl E-00		
	DPD Ferrous Titrimetric	4500-Cl F, 4500-Cl F-00		
	DPD Colorimetric	4500-Cl G, 4500-Cl G-00		
	Iodometric Electrode	4500-Cl I, 4500-Cl I-00		
	On-line Chlorine Analyzer			EPA 334.0 <sup>3</sup>
	Amperometric Sensor			ChloroSense <sup>4</sup>
Chlorine Dioxide	Amperometric Titration	4500-ClO <sub>2</sub> C		
	DPD Method	4500-ClO <sub>2</sub> D		
	Amperometric Titration II	4500-ClO <sub>2</sub> E, 4500-ClO <sub>2</sub> E-00		
	Lissamine Green Spectrophotometric			EPA 327.0 Rev 1.1 <sup>5</sup>
Ozone	Indigo Method	4500-O <sub>3</sub> B, 4500-O <sub>3</sub> B-97		

<sup>1</sup>. All the listed methods are contained in the 18th, 19th, 20th, 21st, and 22nd Editions of *Standard Methods for the Examination of Water and Wastewater*; the cited methods published in any of these editions may be used.

<sup>2</sup>. Annual Book of ASTM Standards, Vol. 11.01, 2004; ASTM International; any year containing the cited version of the method may be used. Copies of this method may be obtained from ASTM International, 100 Barr Harbor Drive, P.O. Box C700 West Conshohocken, PA 19428-2959.

<sup>3</sup>. EPA Method 334.0. "Determination of Residual Chlorine in Drinking Water Using an On-line Chlorine Analyzer," August 2009. EPA 815-B-09-013. Available at [http://epa.gov/safewater/methods/analyticalmethods\\_ogwdw.html](http://epa.gov/safewater/methods/analyticalmethods_ogwdw.html).

<sup>4</sup>. ChloroSense. "Measurement of Free and Total Chlorine in Drinking Water by Palintest ChloroSense," September 2009. Available at <http://www.nemi.gov> or from Palintest Ltd, 21 Kenton Lands Road, PO Box 18395, Erlanger, KY 41018.

<sup>5</sup>. EPA Method 327.0, Revision 1.1, "Determination of Chlorine Dioxide and Chlorite Ion in Drinking Water Using Lissamine Green B and Horseradish Peroxidase with Detection by Visible Spectrophotometry," USEPA, May 2005, EPA 815-R-05-008. Available online at <http://www.epa.gov/safewater/methods/sourcalt.html>.

D. - E.1. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(8)(13) and 40:5(5)(6)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1337 (June 2002), amended LR 28:2516 (December 2002), LR 42:411 (March 2016).

### Subchapter B. Treatment Technique Requirements and Performance Standards

#### §1113. Treatment Technique Requirements

A. - A.3. ...

4. the total reductions to be required by the DHH may be higher and are subject to the source water concentration of *Giardia lamblia*, viruses, and *Cryptosporidium*;

5. the residual disinfectant concentration in the water delivered to the distribution system is not less than 0.5 mg/l free chlorine or 0.5 mg/l total chlorine for more than 4 hours in any 24 hour period; and

6. the residual disinfectant concentration is not less than 0.5 mg/l free chlorine or 0.5 mg/l total chlorine in more than 5.0 percent of the samples collected each month from the distribution system for any two consecutive months.

B. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(8) and R.S. 40:5(2)(3)(5)(6)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1340 (June 2002), amended LR 28:2518 (December 2002), LR 35:1241 (July 2009), LR 42:411 (March 2016).

#### §1117. Non-Filtering Systems

A. - C.1. ...

a. A system shall demonstrate compliance with the inactivation requirements based on conditions occurring during peak hourly flow. Residual disinfectant

measurements shall be taken hourly. Continuous disinfectant residual monitors are acceptable in place of hourly samples provided the accuracy of the disinfectant measurements are validated at least weekly in accord with §1109.B or C, as applicable, of this Chapter. If there is a failure in the continuous disinfectant residual monitoring equipment, the system shall collect and analyze a grab sample every hour in lieu of continuous monitoring.

b. ...

2. To avoid filtration, the system shall maintain minimum disinfectant residual concentrations in accordance with the requirements of §355 and §357 of this Part. Performance standards shall be as presented in §1119.B and C of this Chapter.

3. - 3.a. ...

b. an automatic shut off of delivery of water to the distribution system when the disinfectant residual level drops below 0.5 mg/l free chlorine residual or 0.5 mg/l chloramine residual (measured as total chlorine).

D. - D.7. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(8)(13) and 40:5(2)(3)(5)(6)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1341 (June 2002), amended LR 28:2520 (December 2002), LR 35:1242 (July 2009), LR 42:411 (March 2016).

#### **§1119. Disinfection Performance Standards**

A. ...

B. Except as otherwise specified by this Section and Chapter, disinfection treatment shall comply with the minimum standards and requirements set forth in §355.A and §357 of this Part.

C. - C.4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(8)(13) and 40:5(2)(3)(5)(6)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1341 (June 2002), amended LR 28:2522 (December 2002), LR 35:1242 (July 2009), LR 42:412 (March 2016).

#### **Subchapter C. Monitoring Requirements**

##### **§1125. Disinfection Monitoring**

A. - A.5. ...

B. Disinfectant Residual Monitoring at Plant. To determine compliance with the performance standards specified in §1115 or 1119 of this Chapter, the disinfectant residual concentrations of the water being delivered to the distribution system shall be measured and recorded continuously. The accuracy of disinfectant measurements obtained from continuous disinfectant monitors shall be validated at least weekly in accord with §1109.B or C, as applicable, of this Chapter. If there is a failure of continuous disinfectant residual monitoring equipment, grab sampling every two hours shall be conducted in lieu of continuous monitoring, but for no more than five working days following the failure of the equipment. Failure to have the continuous monitoring equipment replaced or repaired and put back into continuous service following the five working days allowed herein shall be deemed to constitute a violation of this Chapter. Systems shall maintain the results of disinfectant residual monitoring for at least 10 years.

C. Small System Disinfectant Residual Monitoring at Plant. Suppliers serving fewer than 3,300 people may collect and analyze grab samples of the water being delivered to the

distribution system for disinfectant residual determination each day in lieu of the continuous monitoring, in accordance with Table 4 of this Chapter, provided that any time the residual disinfectant falls below 0.5 mg/l free chlorine or 0.5 mg/l chloramine residual (measured as total chlorine), the supplier shall take a grab sample every two hours until the residual concentrations is equal to or greater than 0.5 mg/l free chlorine or 0.5 mg/l chloramine residual (measured as total chlorine).

\*\*\*

D. Disinfectant Residual Monitoring in Distribution System. The residual disinfectant concentrations in the distribution system shall be measured, recorded, and maintained in accordance with §367.B, C, D and E of this Part. A monitoring plan shall be developed, submitted, reviewed, and approved in accordance with §367.E of this Part.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(8)(13) and R.S. 40:5(2)(3)(5)(6)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1342 (June 2002), amended LR 28:2523 (December 2002), LR 35:1243 (July 2009), LR 42:412 (March 2016).

#### **Subchapter E. Reporting**

##### **§1133. DHH Notification**

A. - A.4. ...

5. the disinfectant residual measured from any sample collected from water being delivered to the distribution system is found to be less than 0.5 mg/l free chlorine or 0.5 mg/l chloramine residual (measured as total chlorine). The notification shall indicate whether the disinfectant residual was restored to at least 0.5 mg/l free chlorine or 0.5 mg/l chloramine residual (measured as total chlorine) within 4 hours;

A.6. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(8)(13) and 40:5(2)(3)(5)(6)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:2525 (December 2002), amended LR 35:1244 (July 2009), LR 42:412 (March 2016).

##### **§1135. Monthly Report**

A. - B.5. ...

C. Disinfection Monitoring Results. The monthly report shall include the following disinfection monitoring results.

1. The date and duration of each instance when the disinfectant residual in water supplied to the distribution system is less than 0.5 mg/l free chlorine or 0.5 mg/l chloramine residual (measured as total chlorine) and when the DHH was notified of the occurrence.

2. The following information on samples taken from the distribution system:

a. the number of samples where the disinfectant residual is measured; and

b. the number of measurements where the disinfectant residual is less than 0.5 mg/l free chlorine or 0.5 mg/l chloramine residual (measured as total chlorine).

D. - F.2.a. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(8)(13) and R.S. 40:5(2)(3)(5)(6)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:2526 (December 2002), amended LR 35:1244 (July 2009), LR 42:412 (March 2016).

## Subchapter F. Public Notification

### §1139. Consumer Notification

A. Treatment Technique/Performance Standard Violations. The supplier shall notify persons served by the system whenever there is a failure to comply with the treatment technique requirements specified in §§1113 or 1141, or a failure to comply with the performance standards specified in §§1115, 1117, 1119.A or 1119.C of this Chapter. The notification shall be given in a manner approved by the DHH, and shall include the following mandatory language.

A.1. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(8)(13) and R.S. 40:5(2)(3)(5)(6)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:2527 (December 2002), amended LR 35:485 (March 2009), LR 35:1246 (July 2009), LR 42:413 (March 2016).

## Chapter 15. Approved Chemical Laboratories/Drinking Water

### Subchapter A. Definitions and General Requirements

#### §1503. General Requirements

A. - C. ...

D. - D.1. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(8)(13) and 40:5(2)(3)(5)(6)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 30:1199 (June 2004), amended LR 42:413 (March 2016).

## Chapter 19. Public Notification Rule

### §1903. Public Notification

A. If a public water system fails to comply with an applicable maximum contaminant level, treatment technique requirement, or analytical requirement as prescribed by this Code or fails to comply with the requirements of any schedule prescribed pursuant to a variance or exemption, or fails to perform any monitoring required by this Code, the public water system shall notify persons served by the system of the failure in a manner prescribed by the *national primary drinking water regulations* (as defined in this Part), §§358, 913, 1139, 1317, 1507, 1509, and the Public Notification Rule (Chapter 19 of this Part), as applicable.

B. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(8) and 40:5(2)(3)(5)(6)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 35:486 (March 2009), amended LR 35:1246 (July 2009), LR 38:2378 (September 2012) LR 42:413 (March 2016).

### §1907. Tier 2 Public Notice

A. When a Tier 2 public notice is required under the national primary drinking water regulations, §§358, 913 or 1139.C of this Part, the public water system shall, unless directed otherwise by the Office of Public Health in writing, provide public notification in a daily or weekly newspaper serving the area as soon as possible but no later than 14 days after the violation or failure. In addition to newspaper notice, a notice shall also be provided to the consumers by direct mail or hand delivery within 30 days after the violation or failure.

EXCEPTION: When furnishing a notice to a newspaper is deemed not feasible for a non-community water system, continuous posting (in conspicuous places within the area served by the system) and, if available, e-mailing (to students or employees, for example) may be substituted. The notice shall remain posted for a minimum of at least 7 days.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(8) and 40:5(2)(3)(5)(6)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 35:487 (March 2009), amended LR 42:413 (March 2016).

Jimmy Guidry, M.D.  
State Health Officer  
and  
Rebekah E. Gee MD, MPH  
Secretary

1603#024

## RULE

### Department of Natural Resources Office of Conservation

Class III (Solution-Mining) Injection Wells  
(LAC 43:XVII.Chapter 33)

The Department of Natural Resources, Office of Conservation has amended LAC 43:XVII.Chapter 33 in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and pursuant to the power delegated under the laws of the state of Louisiana. The action amends statewide order no. 29-M-3, which provides comprehensive regulations for class III (solution-mining) injection wells, as amended and enacted by Act 209 and Act 585 of the 2014 Legislative Session.

## Title 43

### NATURAL RESOURCES

#### Part XVII. Office of Conservation—Injection and Mining

##### Subpart 5. Statewide Order No. 29-M-3

#### Chapter 33. Class III (Solution-Mining) Injection Wells

##### §3301. Definitions

\* \* \*

*Closed Cavern Well*—a solution-mining well that is no longer used, or capable of being used, to solution-mine minerals and is thus subject to the closure and post-closure requirements of §3337. The term does not include an inactive well or a previously closed cavern well.

\* \* \*

*Dual-Bore Mining*—for the purposes of these rules, dual bore mining shall be defined as the solution-mining process whereby fluid injection and brine extraction are accomplished through different permitted wells.

\* \* \*

*Inactive Cavern Well*—a solution-mining well that is capable of being used to solution-mine minerals but is not being so used, as evidenced by the filing of a written notice with the Office of Conservation in accordance with §3309.1.3 and §3331.

\* \* \*

*Previously Closed Cavern Well*—a solution-mining well that is no longer used, or capable of being used, to solution-mine minerals and was closed prior to the effective date of these regulations.

\* \* \*

*Qualified Professional Appraiser*—for the purposes of these rules, any licensed real estate appraiser holding current

certification from the Louisiana Real Estate Appraisers Board and functioning within the rules and regulations of their licensure.

\* \* \*

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 40:316 (February 2014), amended LR 42:413 (March 2016).

### **§3303. General Provisions**

A. - B.1. ...

2. Existing solution-mining wells in compliance with statewide order no. 29-N-1, but not in compliance with statewide order no. 29-M-3 as of February 20, 2014, were allowed to continue to operate for one year under statewide order no. 29-N-1. Within that year, the owner or operator was required to submit an alternate means of compliance or a request for a variance pursuant to §3303.F and/or present a corrective action plan to meet the requirements of statewide order no. 29-M-3. During the review period of the request until a final determination is made regarding the alternate means of compliance or variance and/or corrective action plan, the affected solution-mining well may continue to operate in compliance with statewide order no. 29-N-1 in effect prior to February 20, 2014 except they must conform to the provisions of §3301, §3303.G, §3309.B, 3309.I, §3311.D.1.c., §3315, §3319.A and C, §3321.A and C, §3323.C, §3327, §3329, §3331, §3335, and §3337 of this Chapter which was effective as of February 20, 2014 .

3. By February 20, 2015, the owner or operator was required to provide for review documentation of any variance previously authorized by the Office of Conservation. Based on that review, the commissioner may terminate, modify, or revoke and reissue the existing permit with the variance if it is determined that continued operations cannot be conducted in a way that is protective of the environment, or the health, safety, and welfare of the public. The process for terminating, modifying, or revoking and reissuing the permit with the variance is set forth in 3311.K. During the review period the affected solution-mining well may continue to operate in compliance with such variance. If the commissioner does not terminate, modify, or revoke and reissue the existing permit, the affected solution-mining well may continue to operate in compliance with such variance.

C. - F.3. ...

G. Additional Requirements

1. All tests, reports, logs, surveys, plans, applications, or other submittals whether required by these rules and regulations or submitted for informational purposes are required to bear the Louisiana Office of Conservation serial number of any solution-mining or hydrocarbon storage well associated with the submittal.

2. All applications, reports, plans, requests, maps, cross-sections, drawings, opinions, recommendations, calculations, evaluations, or other submittals including or comprising geoscientific work as defined by R.S. 37:711.1 et seq., must be prepared, sealed, signed, and dated by a licensed professional geoscientist (P.G.) authorized to practice by and in good standing with the Louisiana Board of Professional Geoscientists.

3. All applications, reports, plans, requests, specifications, details, calculations, drawings, opinions,

recommendations, evaluations or other submittals including or comprising the practice of engineering as defined by R.S. 37:681 et seq., must be prepared, sealed, signed, and dated by a licensed professional engineer (P.E.) authorized to practice by and in good standing with the Louisiana Professional Engineering and Land Surveying Board.

4. The commissioner may prescribe additional requirements for class III wells or projects in order to protect USDWs and the public.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 40:318 (February 2014), amended LR 42:414 (March 2016).

### **§3305. Permit Requirements**

A. - D.2. ...

a. the authorization is made in writing by an individual who would otherwise have signature authority as outlined in this Paragraph;

D.2.b. - F. ...

\* \* \*

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 40:319 (February 2014), amended LR 42:414 (March 2016).

### **§3307. Application Content**

A. - B.9.b. ...

c. National Pollutant Discharge Elimination System (NPDES) Program under the Clean Water Act;

B.9.d. - C.8. ...

9. sufficient information, including data and maps, to enable the Office of Conservation to identify oil and gas activity in the vicinity of the salt dome which may affect the proposed well; and

C.10. - G.1.b. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 40:320 (February 2014), amended LR 42:414 (March 2016).

### **§3309. Legal Permit Conditions**

A. - B. ...

1. Closure and Post-Closure. The owner or operator of a solution-mining well shall maintain financial responsibility and the resources to close, plug and abandon and, where necessary, perform post-closure care of the solution-mining well, cavern, and related facilities as prescribed by the Office of Conservation. The related facilities shall include all surface and subsurface constructions and equipment exclusively associated with the operation of the solution-mining cavern including but not limited to class II saltwater disposal wells and any associated equipment or pipelines whether located inside or outside of the permitted facility boundary. Evidence of financial responsibility shall be by submission of a surety bond, a letter of credit, certificate of deposit, or other instruments acceptable to the Office of Conservation. The amount of funds available shall be no less than the amount identified in the cost estimate of the closure plan of §3337.A and, if required, post-closure plan of §3337.B. Any financial instrument filed in satisfaction of these financial responsibility requirements shall be issued by and drawn on a bank or other financial institution authorized under state or federal law to operate in the state of

Louisiana. In the event that an operator has previously provided financial security pursuant to LAC 43:XVII.3309, such operator shall provide increased financial security if required to remain in compliance with this Section, within 30 days after notice from the commissioner.

2. ...

3. Assistance to Residents. The operator shall provide assistance to residents of areas deemed to be at immediate potential risk in the event of a sinkhole developing or other incident that leads to issuance of a mandatory or forced evacuation order pursuant to R.S. 29:721 et seq., if the potential risk or evacuation is associated with the operation of the solution-mining well or cavern.

a. Unless an operator of solution-mining well or cavern submits a plan to provide evacuation assistance, acceptable to the commissioner, within five days of the issuance of a mandatory or forced evacuation order pursuant to R.S. 29:721 et seq., associated with the operation of a solution-mining well or cavern, the commissioner of conservation shall:

i. call a public hearing as soon as practicable to take testimony from any interested party including the authority which issued the evacuation order and local governmental officials for the affected area to establish assistance amounts for residents subject to the evacuation order and identify the operator(s) responsible for providing assistance, if any. As soon as practicable following the public hearing the commissioner shall issue an order identifying any responsible operator(s) and establishing evacuation assistance amounts. The assistance amounts shall remain in effect until the evacuation order is lifted or until a subsequent order is issued by the commissioner in accordance with Clause ii of this Subparagraph below;

ii. upon request of an interested party, call for a public hearing to take testimony from any interested party in order to consider establishing or modifying the evacuation assistance amounts and/or consider a challenge to the finding of a responsible operator(s). The public hearing shall be noticed and held in accordance with R.S. 30:6. The order shall remain in effect until the evacuation is lifted or the commissioner's order is modified, supplemented, or revoked and reissued, whichever occurs first.

b. Assistance to Residents payments shall not be construed as an admission of responsibility or liability for the emergency or disaster.

4. Reimbursement. The operator shall provide the following.

a. Reimbursement to the state or any political subdivision of the state for reasonable and extraordinary costs incurred in responding to or mitigating a disaster or emergency due to a violation of this Chapter or any rule, regulation or order promulgated or issued pursuant to this Chapter. Such costs shall be subject to approval by the director of the Governor's Office of Homeland Security and Emergency Preparedness prior to being submitted to the permittee or operator for reimbursement. Such payments shall not be construed as an admission of responsibility or liability for the emergency or disaster.

i. The commissioner shall have authority to ensure collection of reimbursement(s) due pursuant to R.S. 30:4.M.6.b and this Subparagraph.

ii. Upon petition by the state or any political subdivision of the state that is eligible for reimbursement under this Subparagraph, the commissioner shall issue an order to the permittee or operator to make payment within 30 days for the itemized costs and/or the appraised amount.

iii. Failure to make the required payment(s) shall be a violation of the permit and these rules.

iv. Should any interested party dispute the amount of reimbursement, they may call for a public hearing to take testimony from all interested parties. The public hearing shall be noticed and held in accordance with R.S. 30:6.

b. Reimbursement to any person who owns noncommercial residential immovable property located within an area under a mandatory or forced evacuation order pursuant to R.S. 29:721 et seq., for a period of more than 180 days, without interruption due to a violation of this Chapter, the permit or any order issued pursuant to this Chapter. The offer for reimbursement shall be calculated for the replacement value of the property based upon an appraisal by a qualified professional appraiser. The replacement value of the property shall be calculated based upon the estimated value of the property prior to the time of the incident resulting in the declaration of the disaster or emergency. The reimbursement shall be made to the property owner within 30 days after notice by the property owner to the permittee or operator indicating acceptance of the offer and showing proof of continuous ownership prior to and during the evacuation lasting more than 180 days, provided that the offer for reimbursement is accepted within 30 days of receipt, and the property owner promptly transfers the immovable property free and clear of any liens, mortgages, or other encumbrances to the permittee or operator. Such payments shall not be construed as an admission of responsibility or liability.

C. - F.2. ...

3. The Office of Conservation may immediately prohibit further operations if it determines that continued operations of a solution-mining well, cavern, and related facility, or parts thereof, may cause unsafe operating conditions, or endanger the environment, or the health, safety and welfare of the public. The prohibition shall remain in effect until it is determined that continued operations can and shall be conducted safely. It shall be the duty of the operator to prove that continued operation of the solution-mining well, or part thereof, shall not endanger the environment, or the health, safety and welfare of the public.

G. - I.8.b.ii. ...

9. The operator shall give written notification to the Office of Conservation upon permanent conclusion of solution-mining operations. Notification shall be given within seven days after concluding operations. The notification shall include the date on which mining activities were concluded, the reason for concluding the mining activities, and a plan to meet the minimum requirements as per §3331. See §3337 for additional requirements to be conducted after concluding mining activities but before closing the solution-mining well or cavern. Solution-mining caverns that are not in an inactive status as of the date written notification of permanent conclusion of solution-mining operations is submitted to the Office of Conservation will be immediately placed in an inactive status.

I.10. - J.3. ...

K. Compliance Review. The commissioner shall review each issued solution-mining well permit, area permit, and cavern at least once every five years to determine whether any permit should be modified, revoked and reissued, terminated, whether a minor modification needs to be made, or if remedial action or additional monitoring is required for any cavern. Commencement of the compliance review process for each facility shall proceed as authorized by the commissioner of conservation.

1. As a part of the five-year permit review, the operator shall submit to the Office of Conservation updated maps and cross-sections based upon best available information depicting the locations of its own caverns and proposed caverns in relation to each other, in relation to the periphery of the salt stock, and in relation to other operator's salt caverns (including solution-mining caverns, disposal caverns, storage caverns, and room and pillar salt mines) in the salt stock. These requirements may be satisfied by the submittal of: a structure map contoured on the top of the salt dome with the maximum outline of each cavern or proposed cavern shown in aerial view; cross-sections showing the closest approach of the operator's cavern(s) to the top and edges of the salt dome; cross-sections and/or maps showing the relative position of the operator's cavern(s) to any other cavern within the area of review; and any other maps, cross-sections, surveys, or other information required by the commissioner. Also, refer to §3313 and §3315.

K.2. - M.3.c. ...

4. If the commissioner determines that any well constructed pursuant to §3309.M.3 does not satisfy any of the requirements of §3309.M.3.a and b, the commissioner may modify the permit under §3311.K.3, terminate under §3311.K.7, or take enforcement action. If the commissioner determines that cumulative effects are unacceptable, the permit may be modified under §3311.K.3.

N. - O. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 40:323 (February 2014), amended LR 42:414 (March 2016).

### **§3311. Permitting Process**

A. ...

B. Notice of Intent to File Application

1. The applicant shall make public notice that a permit application is to be filed with the Office of Conservation. A notice of intent shall be published at least 30 days but not more than 180 days before filing the permit application with the Office of Conservation. The applicant shall publish a new notice of intent if the application is not received by the Office of Conservation within the filing period.

2. - 3. ...

C. Application Submission and Review

1. The applicant shall complete, sign, and submit one original application form and one copy, with required attachments and documentation to the Office of Conservation. The commissioner may request additional paper copies of the application if it is determined that they are necessary. The complete application shall contain all information to show compliance with applicable state laws and these rules and regulations. When the application is deemed administratively complete, the applicant shall

submit an electronic version of the application with the following certification statement.

"This document is an electronic version of the application titled (Insert Document Title) dated (Insert Application Date). This electronic version is an exact duplicate of the paper copy submitted in (Insert the Number of Volumes Comprising the Full Application) volumes to the Louisiana Office of Conservation."

C.2. - D.1.b. ...

c. In Iberia Parish, no permit to drill or operate a new solution-mined cavern or to return an inactive solution-mining cavern to service shall be issued without a public hearing. The owner or operator shall give public notice of the hearing on 3 separate days within a period of 30 days prior to the public hearing, with at least 5 days between each public notice, both in the official state journal and in the official journal of Iberia Parish.

D.2. - J.2.f. ...

g. If the commissioner does not notify the existing operator and the proposed new owner or operator of his intent to modify or revoke and reissue the permit under §3311.K.3.b the transfer is effective on the date specified in the agreement mentioned in §3311.J.2.b.iii above.

J.2.h. - K.4.a. ...

b. The Office of Conservation has received notification of a proposed transfer of the permit and the transfer is determined not to be a minor permit modification. A permit may be modified to reflect a transfer after the effective date as per §3311.J.2.b.ii but will not be revoked and reissued after the effective date except upon the request of the new operator.

5. - 7.b. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 40:326 (February 2014), amended LR 42:416 (March 2016).

### **§3313. Site Assessment**

A. - A.5. ...

6. an assessment of well information and oil and gas activity within the vicinity of the salt dome which may affect the solution-mining cavern.

B. - E. ...

1. Surface Delineation

a. The area of review for an individual solution-mining well shall be a fixed radius around the wellbore of not less than 1320 feet.

b. The area of review for wells in a solution-mining project area (area permit), shall be the project area plus a circumscribing area the width of which is not less than 1320 feet. The area of review for new solution-mining wells within an existing area permit shall be a circumscribing area around the proposed solution-mining well the width of which is not less than 1320 feet. Only information outlined in §3313.E.2, not previously assessed as part of the area permit application review or as part of the review of an application for a subsequent solution-mining well located within the area permit, shall be considered.

c. Exception shall be noted as shown in §3313.E.2.c and d below.

E.2. - F.2. ...

3. No permit to inject shall be issued for a new solution-mining well until all required corrective action obligations have been fulfilled.

4. - 7. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 40:330 (February 2014), amended LR 42:416 (March 2016).

**§3315. Cavern and Surface Facility Design Requirements**

A. - B.1.a.ii. ...

iii. If no objection from a non-consenting adjacent property owner is received within 30 days of the notice provided in accordance with Clause 1.a.i above, then the commissioner may approve the continued operation of the cavern administratively.

1.b. - 3.b. ...

c. Without exception or variance to these rules and regulations, an existing solution-mining cavern with cavern walls 100 feet or less from the periphery of the salt stock shall be removed from service immediately and permanently. An enhanced monitoring plan in conformance with Subparagraph b above for long term monitoring shall be prepared and submitted to the Office of Conservation. Once approved, the owner or operator shall implement the enhanced monitoring plan.

d. For solution-mining caverns in existence as of the effective date of these regulations with less than 300 feet but more than 100 feet of salt separation at any point between the cavern walls and the periphery of the salt stock, continued or additional solution-mining may be allowed upon submittal of an enhanced monitoring plan in conformance with Subparagraph b above in addition to any additional maps, studies, tests, assessments, or surveys required by the commissioner to show that the cavern is capable of continued safe operations.

C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 40:332 (February 2014), amended LR 42:417 (March 2016).

**§3317. Well Construction and Completion**

A. - D.3. ...

E. Cased Borehole Surveys. A cement bond with variable density log (or similar cement evaluation tool) shall be run on all casing strings when practicable. A temperature log shall be run on all casing strings. The Office of Conservation may consider requests for alternative logs, tests, or surveys for wireline logging in large diameter casings or justifiable special conditions. A descriptive report interpreting the results of such logs shall be prepared and submitted to the commissioner.

1. - 2. ...

F. Hanging Strings. Without exception or variance to these rules and regulations, all active solution-mining wells shall be completed with at least two hanging strings except as provided for dual-bore mining. One hanging string shall be for injection; the second hanging string shall be for displacing fluid out of the cavern from below the blanket material. The commissioner may approve a request for a single hanging string in active solution-mining wells only in the case of dual-bore mining. Without exception or variance to these rules and regulations, all inactive solution-mining wells shall be completed with at least one hanging string.

Hanging strings shall be designed with a collapse, burst, and tensile strength rating conforming to all expected operating conditions. The design shall also consider the physical and chemical characteristics of fluids placed into and/or withdrawn from the cavern.

G. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 40:333 (February 2014), amended LR 42:417 (March 2016).

**§3319. Operating Requirements**

A. ...

B. Blanket Material. Before beginning solution-mining operations, a blanket material shall be placed into the cavern to prevent unwanted leaching of the cavern roof. The blanket material shall consist of crude oil, diesel, mineral oil, or other fluid possessing similar noncorrosive, nonsoluble, low-density properties. The blanket material shall be placed between the outermost hanging string and innermost cemented casing of the cavern and shall be of sufficient volume to coat the entire cavern roof. In all caverns which have not been plugged and abandoned, the cavern roof and level of the blanket material shall be monitored at least once every five years by running a density interface survey or using an alternative method approved by the Office of Conservation. A blanket meeting the requirements of this section shall remain in place for active caverns and shall be removed from inactive caverns only upon the approval of the Office of Conservation.

C. - F.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 40:335 (February 2014), amended LR 42:417 (March 2016).

**§3321. Safety**

A. Emergency Action Plan. An emergency action plan containing emergency contact telephone numbers, procedures and specific information for facility personnel to respond to a release, upset, incident, accident, or other site emergency shall be kept at the facility and shall be reviewed and updated as needed. An outline of the plan, including emergency contact telephone numbers, shall be prepared and submitted as part of the permit application or compliance review.

B. ...

C. Personnel. While solution-mining, testing, or performing any work requiring a UIC-17 (work permit), trained and competent personnel shall be on duty and stationed as appropriate at the solution-mining well during all hours and phases of facility operation. If the solution-mining facility chooses to use an offsite monitoring and control automated telemetry surveillance system, approved by the commissioner, provisions shall be made for trained personnel to be on-call at all times and 24-hour-a-day staffing of the facility may not be required.

D. - I.1. ...

J. - J.2. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 40:335 (February 2014), amended LR 42:417 (March 2016).



**§3323. Monitoring Requirements**

A. - C.3. ...

D. Subsidence Monitoring. The owner or operator shall prepare and carry out a plan approved by the commissioner to monitor ground subsidence at and in the vicinity of the solution-mining cavern(s). The monitoring plan should include at a minimum all wells/caverns belonging to the owner or operator regardless of the status of the cavern. Frequency of subsidence monitoring shall be scheduled to occur annually during the same period. A monitoring report with interpretation shall be prepared and submitted to the Office of Conservation after completion of each monitoring event.

E. - F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 40:336 (February 2014), amended LR 42:418 (March 2016).

**§3327. Well and Cavern Mechanical Integrity Pressure and Leak Tests**

A. - B. ...

1. Without exception or variance to these rules and regulations, all solution-mining wells and caverns shall be tested for and satisfactorily demonstrate mechanical integrity before beginning injection activities.

2. For solution-mining wells and caverns permitted on the effective date of these regulations, if a mechanical integrity test (MIT) has not been run on the well or cavern within three years prior to the effective date of these regulations, the operator must run an MIT within two years in order to remain in compliance.

3. - 3.b. ...

c. before returning the cavern to hydrocarbon storage service after a period of salt solution-mining or washing to purposely increase storage cavern size or capacity;

d. after completion of any additional mining or salt washing for caverns engaging in simultaneous storage and salt solution-mining or washing that results in a significant increase in cavern volume or change in cavern configuration;

e. before well closure, except when the cavern has experienced mechanical failure;

f. whenever leakage into or out of the cavern is suspected;

g. whenever the commissioner determines a test is warranted.

C. - C.5. ...

6. Any MIT performed on a solution-mining cavern shall include a separate pressure test on the casing of at least 60 minutes.

D. - E. ...

1. Without exception or variance to these rules and regulations, a solution-mining well or cavern that fails a test for mechanical integrity shall be immediately taken out of service. The failure shall be reported to the Office of Conservation according to the notification requirements of §3309.I.8. The owner or operator shall investigate the reason for the failure and shall take appropriate steps to return the

solution-mining well or cavern to a full state of mechanical integrity. A solution-mining well or cavern is considered to have failed a test for mechanical integrity for the following reasons:

1.a. - 5. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 40:337 (February 2014), amended LR 42:418 (March 2016).

**§3329. Cavern Configuration and Capacity Measurements**

A. - B.2. ...

3. before returning the cavern to storage service after a period of salt solution-mining or washing to purposely increase the storage cavern size or capacity;

4. after completion of any additional solution-mining or washing for caverns engaged in simultaneous storage and salt solution-mining; or

5. whenever the Office of Conservation believes a survey is warranted.

C. - C.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 40:339 (February 2014), amended LR 42:418 (March 2016).

**§3331. Inactive Caverns and Caverns in which Mining Activities are to be Concluded**

A. - A.6. ...

7. No inactive solution-mining cavern may be returned to service without first submitting a written request and work permit application to the Office of Conservation and obtaining approval of the commissioner.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 40:339 (February 2014), amended LR 42:418 (March 2016).

James H. Welsh  
Commissioner

1603#045

**RULE**

**Department of Natural Resources  
Office of Conservation**

Hydrocarbon Storage Wells in Salt Dome Cavities  
(LAC 43:XVII.Chapter 3)

The Department of Natural Resources, Office of Conservation has amended LAC 43:XVII.Chapter 3 in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and pursuant to the power delegated under the laws of the state of Louisiana. The action adopts statewide order no. 29-M, which provides comprehensive regulations for hydrocarbon storage wells in salt dome cavities, and will amend existing statewide order no. 29-M, as amended and enacted by Act 209 and Act 585 of the 2014 Legislative Session.

**Title 43**  
**NATURAL RESOURCES**

**Part XVII. Office of Conservation—Injection and Mining**

**Subpart 3. Statewide Order No. 29-M**

**Chapter 3. Hydrocarbon Storage Wells in Salt Dome Cavities**

**§301. Definitions**

\*\*\*

*Hydrocarbon Storage Cavern*—a salt cavern created within the salt stock by solution-mining and used to store liquid, liquefied, or gaseous hydrocarbons.

\*\*\*

*Produced Water*—liquids and suspended particulate matter that is obtained by processing fluids brought to the surface in conjunction with the recovery of oil and gas from underground geologic formations, with underground storage of hydrocarbons, or with solution-mining for brine.

\*\*\*

*Qualified Professional Appraiser*—for the purposes of these rules, any licensed real estate appraiser holding current certification from the Louisiana Real Estate Appraisers Board and functioning within the rules and regulations of their licensure.

\*\*\*

*Solution-Mining Injection Well*—a well used to inject fluids, other than fluids associated with active drilling operations, for the extraction of minerals or energy.

\*\*\*

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 3:310 (July 1977), amended LR 40:342 (February 2014), amended LR 42:419 (March 2016).

**§303. General Provisions**

A. - A.2.d. ...

3. That in presenting evidence to the commissioner to enable him to make the findings described above, the applicant shall demonstrate that the proposed storage of liquid, liquefied, or gaseous hydrocarbons will be conducted in a manner consistent with established practices to preserve the integrity of the salt stock and the overlying sediments. This shall include an assessment of the stability of the proposed cavern design, particularly with regard to the size, shape and depth of the cavern, the amount of separation among caverns, the amount of separation between the outermost cavern wall and the periphery of the salt stock, and any other requirements of this Rule.

A.4. - B.1. ...

2. Hydrocarbon storage caverns in existence prior to February 20, 2014 that were in compliance with statewide order no. 29-M in effect at that time, but not in compliance with statewide order no. 29-M that went into effect on February 20, 2014, were allowed to continue to operate for one year under the prior statewide order no. 29-M. Within that year, the owner or operator was required to submit an alternate means of compliance or a request for a variance pursuant to §303.F and/or present a corrective action plan to meet the requirements of statewide order no. 29-M. During the review period of the request until a final determination is made regarding the alternate means of compliance or variance and/or corrective action plan, the affected

hydrocarbon storage well may continue to operate in compliance with statewide order no. 29-M in effect prior to February 20, 2014, except they must conform to the provisions of §301, §303.G, §309.B, 309.I, §311.D.1.c, §315, §319.A and B, §321.A and C, §323.C, §327, §329, §331, §335 and §337 of this Chapter.

3. By February 20, 2015, the owner or operator was required to provide for review documentation of any variance previously authorized by the Office of Conservation. Based on that review, the commissioner may terminate, modify, or revoke and reissue the existing permit with the variance if it is determined that continued operations cannot be conducted in a way that is protective of the environment, or the health, safety, and welfare of the public. The process for terminating, modifying, or revoking and reissuing the permit with the variance is set forth in 311.K. During the review period the affected hydrocarbon storage well may continue to operate in compliance with such variance. If the commissioner does not terminate, modify, or revoke and reissue the existing permit, the affected hydrocarbon storage well may continue to operate in compliance with such variance.

C. - F.3. ...

G. Additional Requirements

1. All tests, reports, logs, surveys, plans, applications, or other submittals whether required by these rules and regulations or submitted for informational purposes are required to bear the Louisiana Office of Conservation serial number of any solution-mining or hydrocarbon storage well associated with the submittal.

2. All applications, reports, plans, requests, maps, cross-sections, drawings, opinions, recommendations, calculations, evaluations, or other submittals including or comprising geoscientific work as defined by R.S. 37:711.1 et seq., must be prepared, sealed, signed, and dated by a licensed professional geoscientist (P.G.) authorized to practice by and in good standing with the Louisiana Board of Professional Geoscientists.

3. All applications, reports, plans, requests, designs, specifications, details, calculations, drawings, opinions, recommendations, evaluations or other submittals including or comprising the practice of engineering as defined by R.S. 37:681 et seq., must be prepared, sealed, signed, and dated by a licensed professional engineer (P.E.) authorized to practice by and in good standing with the Louisiana Professional Engineering and Land Surveying Board.

4. The commissioner may prescribe additional requirements for hydrocarbon storage wells or projects in order to protect USDWs and the public.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 3:310 (July 1977), amended LR 40:344 (February 2014), amended LR 42:419 (March 2016).

**§305. Permit Requirements**

A. - D.2. ...

a. the authorization is made in writing by an individual who would otherwise have signature authority as outlined in this Paragraph;

2.b. - 4. ...

E. Signature Reauthorization. If an authorization under §305.D is no longer accurate because a different individual

or position has responsibility for the overall operation of a hydrocarbon storage facility, a new authorization satisfying the signature requirements must be submitted to the Office of Conservation before or concurrent with any reports, information, or applications required to be signed by an authorized representative.

F. Certification. Any person signing an application under §305.D shall make the following certification on the application.

"I certify under penalty of law that I have personally examined and am familiar with the information submitted in this document and all attachments and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine, and/or imprisonment."

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 40:346 (February 2014), amended LR 42:419 (March 2016).

### §307. Application Content

A. - B.9.b. ...

c. National Pollutant Discharge Elimination System (NPDES) Program under the Clean Water Act;

9.d. - 10. ...

11. documentation of financial responsibility for closure and post-closure, or documentation of the method by which proof of financial responsibility for closure and post-closure as required in §309.B will be provided. Before making a final permit decision, the instrument of financial responsibility for closure and post-closure must be submitted to and approved by the Office of Conservation;

B.12. - C.8. ...

9. sufficient information, including data and maps, to enable the Office of Conservation to identify oil and gas activity in the vicinity of the salt dome which may affect the proposed well; and

C.10. - D.3.a. ...

b. well type and current well status (producing, disposal, storage, solution-mining, shut-in, plugged and abandoned), date the well was drilled, and the date the current well status was assigned;

3.c. - 4.a.i. ...

ii. current or previous use of the cavern (waste disposal, hydrocarbon storage, solution-mining), current status of the cavern (active, shut-in, plugged and abandoned), date the well was drilled, and the date the current well status was assigned;

D.4.a.iii - E.9.l. ...

m. the reporting requirements of §333, including, but not limited to the information required in quarterly operation reports;

E.9.n. - G.1.b. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 40:347 (February 2014), amended LR 42:420 (March 2016).

### §309. Legal Permit Conditions

A. - B. ...

1. Closure and Post-Closure. The owner or operator of a hydrocarbon storage well shall maintain financial

responsibility and the resources to close, plug and abandon and where necessary, perform post-closure care of the hydrocarbon storage well, cavern, and related facilities as prescribed by the Office of Conservation. The related facilities shall include all surface and subsurface constructions and equipment exclusively associated with the operation of the hydrocarbon storage cavern including but not limited to class II saltwater disposal wells and any associated equipment or pipelines whether located inside or outside of the permitted facility boundary. Evidence of financial responsibility shall be by submission of a surety bond, a letter of credit, certificate of deposit, or other instrument acceptable to the Office of Conservation. The amount of funds available shall be no less than the amount identified in the cost estimate of the closure plan of §337.A and post-closure plan of §337.B. Any financial instrument filed in satisfaction of these financial responsibility requirements shall be issued by and drawn on a bank or other financial institution authorized under state or federal law to operate in the state of Louisiana. In the event that an operator has previously provided financial security pursuant to LAC 43:XVII.309, such operator shall provide increased financial security if required to remain in compliance with this Section, within 30 days after notice from the commissioner.

2. ...

3. Assistance to Residents. The operator shall provide assistance to residents of areas deemed to be at immediate potential risk in the event of a sinkhole developing or other incident that leads to issuance of a mandatory or forced evacuation order pursuant to R.S. 29:721 et seq., if the potential risk or evacuation is associated with the operation of a hydrocarbon storage well or cavern.

a. Unless an operator of a hydrocarbon storage well or cavern submits a plan to provide evacuation assistance, acceptable to the commissioner, within five days of the issuance of a mandatory or forced evacuation order pursuant to R.S. 29:721 et seq., associated with the operation of a hydrocarbon storage well or cavern, the commissioner of conservation shall:

i. call a public hearing as soon as practicable to take testimony from any interested party including the authority which issued the evacuation order and local governmental officials for the affected area to establish assistance amounts for residents subject to the evacuation order and identify the operator(s) responsible for providing assistance, if any. As soon as practicable following the public hearing the commissioner shall issue an order identifying any responsible operator(s) and establishing evacuation assistance amounts. The assistance amounts shall remain in effect until the evacuation order is lifted or until a subsequent order is issued by the commissioner in accordance with Clause ii of this Subparagraph below;

ii. upon request of an interested party, call for a public hearing to take testimony from any interested party in order to consider establishing or modifying evacuation assistance amounts and/or consider a challenge to the finding of a responsible operator(s). The public hearing shall be noticed and held in accordance with R.S. 30:6. The order shall remain in effect until the evacuation is lifted or the commissioner's order is modified, supplemented, or revoked and reissued, whichever occurs first.

b. Assistance to Residents payments shall not be construed as an admission of responsibility or liability for the emergency or disaster.

4. Reimbursement. The operator shall provide the following.

a. Reimbursement to the state or any political subdivision of the state for reasonable and extraordinary costs incurred in responding to or mitigating a disaster or emergency due to a violation of this Chapter or any rule, regulation or order promulgated or issued pursuant to this Chapter. Such costs shall be subject to approval by the director of the Governor's Office of Homeland Security and Emergency Preparedness prior to being submitted to the permittee or operator for reimbursement. Such payments shall not be construed as an admission of responsibility or liability for the emergency or disaster.

i. The commissioner shall have authority to ensure collection of reimbursement(s) due pursuant to R.S. 30:4(M)6.b and this Subparagraph.

ii. Upon petition by the state or any political subdivision of the state that is eligible for reimbursement under this Subparagraph, the commissioner shall issue an order to the permittee or operator to make payment within 30 days for the itemized costs and/or the appraised amount.

iii. Failure to make the required payment(s) shall be a violation of the permit and these rules.

iv. Should any interested party dispute the amount of reimbursement, they may call for a public hearing to take testimony from all interested parties. The public hearing shall be noticed and held in accordance with R.S. 30:6.

b. Reimbursement to any person who owns noncommercial residential immovable property located within an area under a mandatory or forced evacuation order pursuant to R.S. 29:721 et seq., for a period of more than 180 days, without interruption due to a violation of this Chapter, the permit or any order issued pursuant to this Chapter. The offer for reimbursement shall be calculated for the replacement value of the property based upon an appraisal by a qualified professional appraiser. The replacement value of the property shall be calculated based upon the estimated value of the property prior to the time of the incident resulting in the declaration of the disaster or emergency. The reimbursement shall be made to the property owner within 30 days after notice by the property owner to the permittee or operator indicating acceptance of the offer and showing proof of continuous ownership prior to and during the evacuation lasting more than 180 days, provided that the offer for reimbursement is accepted within 30 days of receipt, and the property owner promptly transfers the immovable property free and clear of any liens, mortgages, or other encumbrances to the permittee or operator. Such payments shall not be construed as an admission of responsibility or liability.

C. - F.2. ...

3. The Office of Conservation may immediately prohibit further operations if it determines that continued operations of a hydrocarbon storage well, cavern, and related facility, or part thereof, may cause unsafe operating conditions, or endanger the environment, or the health, safety and welfare of the public. The prohibition shall remain in effect until it is determined that continued operations can and shall be conducted safely. It shall be the

duty of the operator to prove that continued operation of the hydrocarbon storage well, or part thereof, shall not endanger the environment, or the health, safety and welfare of the public.

F.3.a. - I.8.b.ii. ....

9. The operator shall give written notification to the Office of Conservation upon permanent conclusion of hydrocarbon storage operations. Notification shall be given within seven days after concluding storage operations. The notification shall include the date on which storage activities were concluded, the reason for concluding the storage activities, and a plan to meet the minimum requirements as per §331. See §337 for additional requirements to be conducted after concluding storage activities but before closing the hydrocarbon storage well or cavern. Hydrocarbon storage caverns that are not in an inactive status as of the date written notification of permanent conclusion of storage operations is submitted to the Office of Conservation will be immediately placed in an inactive status.

I.10. - J.3. ...

K. Compliance Review. The commissioner shall review each issued hydrocarbon storage well permit, area permit, and cavern at least once every five years to determine whether any permit should be modified, revoked and reissued, terminated, whether minor modifications are needed, or if remedial action or additional monitoring is required for any cavern. Commencement of the compliance review process for each facility shall proceed as authorized by the commissioner of conservation.

1. As a part of the five-year permit review, the operator shall submit to the Office of Conservation updated maps and cross sections based upon best available information depicting the locations of its own caverns and proposed caverns in relation to each other, in relation to the periphery of the salt stock, and in relation to other operators' salt caverns (including solution-mining caverns, disposal caverns, storage caverns, and room and pillar salt mines) in the salt stock. These requirements may be satisfied by the submittal of: a structure map contoured on the top of the salt dome with the maximum outline of each cavern or proposed cavern shown in aerial view; cross-sections showing the closest approach of the operator's cavern(s) to the top and edges of the salt dome; cross-sections and/or maps showing the relative position of the operator's cavern(s) to any other cavern within the area of review, and; any other maps, cross-sections, surveys, or other information required by the commissioner. Also, refer to §313 and §315.

K.2. - M.3.c. ...

4. If the commissioner determines that any well constructed pursuant to §309.M.3 does not satisfy any of the requirements of §309.M.3.a and b, the commissioner may modify the permit under §311.K.3, terminate under §311.K.7, or take enforcement action. If the commissioner determines that cumulative effects are unacceptable, the permit may be modified under §311.K.3.

N. Recordation of Notice of Existing Hydrocarbon Storage Caverns. The owner or operator of an existing hydrocarbon storage cavern shall record a certified survey plat of the well location for the cavern in the mortgage and conveyance records of the parish in which the property is located. Such notice shall be recorded no later than six

months after the effective date of these rules and the owner or operator shall furnish a date/file -stamped copy of the recorded notice to the Office of Conservation within 15 days of its recording. If an owner or operator fails or refuses to record such notice, the commissioner may, if he determines that the public interest requires, and after due notice and an opportunity for a hearing has been given to the owner and operator, cause such notice to be recorded.

O. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 40:349 (February 2014), amended LR 42:420 (March 2016).

### **§311. Permitting Process**

A. - C. ...

1. The applicant shall complete, sign, and submit one original application form and one copy, with required attachments and documentation to the Office of Conservation. The commissioner may request additional paper copies of the application if it is determined that they are necessary. The complete application shall contain all information to show compliance with applicable state laws and these rules and regulations. When the application is deemed administratively complete, the applicant shall submit an electronic version of the application with the following certification statement.

"This document is an electronic version of the application titled (Insert Document Title) dated (Insert Application Date). This electronic version is an exact duplicate of the paper copy submitted in (Insert the Number of Volumes Comprising the Full Application) volumes to the Louisiana Office of Conservation."

C.2. - D.1.b. ...

c. In Iberia Parish, no permit to convert an existing solution-mined cavern to hydrocarbon storage, to expand an existing hydrocarbon storage cavern, or to return an inactive hydrocarbon storage cavern to service shall be issued without a public hearing. The owner or operator shall give public notice of the hearing on 3 separate days within a period of 30 days prior to the public hearing, with at least 5 days between each public notice, both in the official state journal and in the official journal of Iberia Parish.

2. - 2.b. ...

- i. the applicant;
- ii. all property owners within 1320 feet of the hydrocarbon storage facility's property boundary;
- iii. operators of existing projects located on or within the salt stock of the proposed project;
- iv. United States Environmental Protection Agency;
- v. Louisiana Department of Wildlife and Fisheries;
- vi. Louisiana Department of Environmental Quality;
- vii. Louisiana Office of Coastal Management;
- viii. Louisiana Office of Conservation, Pipeline Division;
- ix. Louisiana Department of Culture, Recreation and Tourism, Division of Archaeology;
- x. the governing authority for the parish of the proposed project; and
- xi. any other interested parties.

D.3. - J.2.f. ...

g. If the commissioner does not notify the existing operator and the proposed new owner or operator of his intent to modify or revoke and reissue the permit under §311.K.3.b, the transfer is effective on the date specified in the agreement mentioned in Clause b.iii above.

h. Any additional information as may be required to be submitted by these regulations or the Office of Conservation.

K. - K.4. ...

a. Cause exists for termination under §311.K.7, and the Office of Conservation determines that modification or revocation and reissuance is appropriate.

b. The Office of Conservation has received notification of a proposed transfer of the permit and the transfer is determined not to be a minor permit modification. A permit may be modified to reflect a transfer after the effective date as per §311.J.2.b.ii but will not be revoked and reissued after the effective date except upon the request of the new operator.

5. - 7.b. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 40:352 (February 2014), amended LR 42:422 (March 2016).

### **§313. Site Assessment**

A. - A.5. ...

6. an assessment of well information and oil and gas activity within the vicinity of the salt dome which may affect the hydrocarbon storage cavern.

B. - E.1.a. ...

b. The area-of-review for wells in a hydrocarbon storage project area (area permit), shall be the project area plus a circumscribing area the width of which is not less than 1320 feet. The area of review for new hydrocarbon storage wells within an existing area permit shall be a circumscribing area around the proposed hydrocarbon storage well the width of which is not less than 1320 feet. Only information outlined in §313.E.2, not previously assessed as part of the area permit application review or as part of the review of an application for a subsequent hydrocarbon storage well located within the approved area permit, shall be considered.

E.1.c. - F.7. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 40:357 (February 2014), amended LR 42:422 (March 2016).

### **§315. Cavern Design and Spacing Requirements**

A. - B.3.b. ...

c. Without exception or variance to these rules and regulations, an existing hydrocarbon storage cavern with cavern walls 100 feet or less from the periphery of the salt stock shall be removed from hydrocarbon storage service immediately and permanently. An enhanced monitoring plan in conformance with Subparagraph b above for long term monitoring shall be prepared and submitted to the Office of Conservation. Once approved, the owner or operator shall implement the enhanced monitoring plan.

d. For hydrocarbon storage caverns in existence as of the effective date of these regulations with less than 300 feet but more than 100 feet of salt separation at any point

between the cavern walls and the periphery of the salt stock, continued hydrocarbon storage may be allowed upon submittal of an enhanced monitoring plan in conformance with Subparagraph b above in addition to any additional maps, studies, tests, assessments, or surveys required by the commissioner to show that the cavern is capable of continued safe operations.

C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 40:358 (February 2014), amended LR 42:422 (March 2016).

### **§317. Well Construction and Completion**

A. - D.3. ...

E. Cased Borehole Surveys. A cement bond with variable density log (or similar cement evaluation tool) shall be run on all casing strings when practicable. A temperature log shall be run on all casing strings. The Office of Conservation may consider requests for alternative logs, tests, or surveys for wireline logging in large diameter casings or justifiable special conditions. A descriptive report interpreting the results of such logs shall be prepared and submitted to the commissioner.

1. - 3. ...

F. Hanging Strings. All active hydrocarbon storage wells shall be completed with at least one hanging string unless specifically exempted from this requirement by the commissioner. The commissioner may administratively approve operation of an active hydrocarbon storage cavern without a hanging string upon a showing of good cause and practical necessity by the operator. Hanging strings shall be designed with a collapse, burst, and tensile strength rating conforming to all expected operating conditions. The design shall also consider the physical and chemical characteristics of fluids placed into and withdrawn from the cavern.

G. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 42:423 (March 2016).

### **§321. Safety**

A. Emergency Action Plan. An Emergency Action Plan containing emergency contact telephone numbers, procedures and specific information for facility personnel to respond to a release, upset, incident, accident, or other site emergency shall be kept at the facility and shall be reviewed and updated as needed. An outline of the plan, including emergency contact telephone numbers, shall be prepared and submitted as part of the permit application or compliance review.

B. - K. ...

L. - L.2. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 40:362 (February 2014), amended LR 42:423 (March 2016).

### **§323. Monitoring Requirements**

A. - C.2. ...

3. A casing inspection or similar log shall be run on the entire length of the innermost cemented casing in each well at least once every 10 years for liquid hydrocarbon

storage caverns and every 15 years for natural gas storage caverns.

C.4. - D.2. ...

E. Subsidence Monitoring and Frequency. The owner or operator shall prepare and carry out a plan approved by the commissioner to monitor ground subsidence at and in the area of the storage cavern(s). A monitoring report with interpretation shall be prepared and submitted to the Office of Conservation after completion of each monitoring event.

E.1. - G. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 40:363 (February 2014), amended LR 42:423 (March 2016).

### **§327. Well and Cavern Mechanical Integrity Pressure and Leak Tests**

A. - B.3.b. ...

c. before returning the cavern to hydrocarbon storage service after a period of salt solution-mining or washing to purposely increase storage cavern size or capacity;

d. after completion of any additional mining or salt washing for caverns engaging in simultaneous storage and salt solution-mining or washing that results in a significant increase in cavern volume or change in cavern configuration;

e. before well closure, except when the cavern has experienced mechanical failure;

f. whenever leakage into or out of the cavern is suspected;

g. whenever the commissioner determines a test is warranted.

C. - C.5. ...

6. Any MIT performed on a hydrocarbon storage cavern shall include a separate pressure test on the casing of at least 60 minutes.

D. - E. ...

1. Without exception or variance to these rules and regulations, a storage well or cavern that fails a test for mechanical integrity shall be immediately taken out of service. The failure shall be reported to the Office of Conservation according to the notification requirements of §309.I.8 The owner or operator shall investigate the reason for the failure and shall take appropriate steps to return the storage well or cavern to a full state of mechanical integrity. A storage well or cavern is considered to have failed a test for mechanical integrity for the following reasons:

1.a. - 3.a. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 40:364 (February 2014), amended LR 42:423 (March 2016).

### **§329. Cavern Configuration and Capacity Measurements**

A. ...

B. Frequency of Surveys. For liquid hydrocarbon storage caverns, a sonar caliper survey, or other approved survey, shall be performed at least once every 5 years. At least once every 10 years a sonar caliper survey, or other approved survey, shall be performed that logs the roof of the cavern. For natural gas storage caverns, a sonar caliper survey, or

other approved survey, shall be performed at least once every 5 years. At least once every 15 years a sonar caliper survey, or other approved survey, shall be performed that logs the roof of the cavern. For natural gas storage caverns engaging in simultaneous storage and salt solution-mining or washing, a sonar caliper survey, or other approved survey, shall be performed in accordance with this article or in accordance with LAC 43:XVII.3329, whichever requires the more frequent survey. For natural gas storage caverns of small size, stable configuration, and favorable positioning within the salt stock, the commissioner may approve partial sonar caliper surveys in fulfillment of the required surveys excepting the required survey at least once every 15 years to log the roof of the cavern. Additional surveys as specified by the Office of Conservation shall be performed for any of the following reasons regardless of frequency:

1. - 2. ...
3. before returning the cavern to storage service after a period of salt solution-mining or washing to purposely increase storage cavern size or capacity;
4. after completion of any additional mining or salt washing for caverns engaging in simultaneous storage and salt solution-mining or washing;

B.5. - C.2. ...  
 AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 40:366 (February 2014), amended LR 42:423 (March 2016).

### **§331. Inactive Caverns**

- A. - A.6. ...
7. No inactive hydrocarbon storage cavern may be returned to service without first submitting a written request and work permit application to the Office of Conservation and obtaining approval of the commissioner.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 40:366 (February 2014), amended LR 42:424 (March 2016).

### **§337. Closure and Post-Closure**

- A. - A.3. ...
- a. assurance of financial responsibility as required in §309.B.1. All instruments of financial responsibility shall be reviewed according to the following process:

- i. detailed cost estimate for closure of the well and related appurtenances (well, cavern, surface appurtenances, etc.) as prepared by a qualified professional. The closure plan and cost estimate shall include provisions for closure acceptable to the Office of Conservation;

A.3.a.ii. - B.3. ...  
 AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 40:367 (February 2014), amended LR 42:424 (March 2016).

James H. Welsh  
 Commissioner

1603#044

## **RULE**

### **Department of Public Safety and Corrections Corrections Services**

#### **Sex Offender Treatment Plans and Programs (LAC 22:I.337)**

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950), the Department of Public Safety and Corrections, Corrections Services, has amended the contents of Section 337, Sex Offender Treatment Plans and Programs.

#### **Title 22**

### **CORRECTIONS, CRIMINAL JUSTICE AND LAW ENFORCEMENT**

#### **Part I. Corrections**

#### **Chapter 3. Adult Services**

#### **Subchapter A. General**

#### **§337. Sex Offender Treatment Plans and Programs**

A. Purpose—to state the department's procedures for providing sex offender treatment plans and programs as set forth pursuant to the laws of this state.

B. Applicability—deputy secretary, chief of operations, department's medical/mental health director, director, Regional Directors and District Managers of probation and parole, chairman of the committee on parole, regional wardens, wardens and sheriffs or administrators of local jail facilities. Each unit head is responsible for ensuring that appropriate unit written policy and procedures are in place to comply with the provisions of this regulation.

C. Policy. It is the secretary's policy that certain convicted sex offenders (as specifically defined in Subsections E, F, G and H) shall participate in appropriate sex offender treatment plans pursuant to the provisions of this regulation and the statutory requirements as stated herein.

#### **D. Definitions**

*Mental Health Evaluation* (for the purpose of this regulation)—an examination by a qualified mental health professional with experience in treating sex offenders.

*Qualified Mental Health Professional* (for the purpose of this regulation)—an individual who provides sex offender treatment to offenders in keeping with their respective levels of education, experience, training and credentials.

*Unit Head*—the head of an operational unit, specifically, the undersecretary, warden, director of probation and parole, chairman of the committee of parole, sheriffs and administrators of local jail facilities and transitional work programs.

E. Sex offender treatment plan pursuant to R.S. 15:538(C):

1.a. no sex offender whose offense involved a minor child who is 12 years old or younger or who is convicted two or more times of a violation of:

- i. R.S. 14:42—aggravated rape or first degree rape;
- ii. R.S. 14:42.1—forcible rape or second degree rape;

- iii. R.S. 14:43—simple rape or third degree rape;
- iv. R.S. 14:43.1—sexual battery;
- v. R.S. 14:43.2—second degree sexual battery;
- vi. R.S. 14:43.3—oral sexual battery;
- vii. R.S. 14:43.4—Repealed.
- viii. R.S. 14:78—incest committed prior to 6-12-14;
- ix. R.S. 14:89(A)(2) —crime against nature committed on or after 6-12-14;
- x. R.S. 14:78.1—aggravated incest committed prior to 6-12-14;
- xi. R.S. 14:89.1—aggravated crime against nature;
- b. shall be eligible for probation, parole, suspension of sentence, or diminution of sentence if imposed as a condition by the sentencing court pursuant to R.S. 15:537(A), unless, as a condition thereof, the offender undergoes a treatment plan based upon a mental health evaluation;
- 2. it shall be the responsibility of ARDC specialists during the pre-class verification process to identify those offenders whose sentence places them under the provisions of R.S. 15:538(C). It is preferable that state offenders in this category be transferred from a local jail facility to a departmental reception and diagnostic center. The Office of Adult Services' Transfer Section shall be responsible for the transport of these offenders to the department's custody. The basic jail guidelines regional team leaders shall assist local jail facilities with any questions or concerns regarding the provisions of R.S. 15:538(C):
  - a. if an offender assigned to an institution should receive a new sentence for an identified sex offense, it will be the responsibility of the warden to determine if they are subject to the conditions of R.S. 15:538(C);
- 3. each institution and the division of probation and parole shall make arrangements with qualified mental health professionals for the purpose of conducting mental health evaluations and to develop and implement treatment plans;
- 4. the treatment plan shall be based upon a mental health evaluation and shall effectively deter recidivist sexual offenses by the offender, thereby reducing the risk of reincarceration of the offender and increasing the safety of the public, and under which the offender may reenter society;
- 5. the treatment plan may include:
  - a. the utilization of medroxyprogesterone acetate treatment (MPA) or its chemical equivalent as a preferred method of treatment;
  - b. a component of defined behavioral intervention if the evaluating qualified mental health professional determines that is appropriate for the offender;
- 6. the provisions of R.S. 15:538(C) shall only apply if parole, probation, suspension of sentence, or diminution of sentence is permitted by law and the offender is otherwise eligible;
- 7. if on probation or subject to a sentence that has been suspended, the offender shall begin MPA or its chemical equivalent treatment as ordered by the court or a qualified mental health professional and medical staff;
- 8. if MPA or its chemical equivalent is part of an incarcerated offender's treatment plan, the offender shall begin such treatment at least six weeks prior to release;
- 9. once a treatment plan is initiated, based upon a mental health evaluation, it shall continue unless it is

determined by a physician or qualified mental health professional that it is no longer necessary. The attending physician or qualified mental health professional may seek a second opinion;

10. if an offender voluntarily undergoes a permanent, surgical alternative to hormonal chemical treatment for sex offenders, he shall not be subject to the provisions of this regulation;

11. before beginning MPA or its chemical equivalent therapy, the offender shall be informed about the uses and side effects of MPA therapy, and shall acknowledge in writing using the consent/refusal for medroxyprogesterone treatment (Form B-06-002-A) that he has received this information;

12. the offender shall be responsible for the costs of the evaluation, the treatment plan and the treatment:

a. if the offender is not indigent, these services will be rendered by an outside mental health provider based upon a fee schedule established by the Department of Public Safety and Corrections. If the offender is on probation or under parole supervision, services will be rendered at the provider's place of business. If the offender is housed in an institution, services will be rendered by the provider at the state or local jail facility. In either event, the department reserves the right to determine the eligibility of the provider to furnish services;

b. indigent offenders who are on probation or under parole supervision will be responsible for seeking services through the Department of Health and Hospitals, Office of Mental Health (with assistance, as needed, from their probation and parole officer). The provision of such services is strictly subject to the availability of resources and programs within the Department of Health and Hospitals. If the offender is housed in a state institution, services will be provided by Department of Public Safety and Corrections' mental health staff. A set-up fee will be charged to the offender based upon the fee scale for non-indigent offenders and the offender's account shall reflect the cost of the service as a debt owed;

c. indigent offenders housed in local jail facilities requiring these services should be transferred, if possible, to the department's reception and diagnostic center. In unusual circumstances when this is not possible, services for these offenders shall be coordinated by the administrator of the local jail facility with the Department of Health and Hospitals, Office of Mental Health (with assistance, as needed, from the department's medical/mental health director or the basic jail guidelines regional team leader). The provision of such services is strictly subject to the availability of resources and programs within the Department of Health and Hospitals;

13. chemical treatment shall be administered through a licensed medical practitioner. Any physician or qualified mental health professional who acts in good faith in compliance with this regulation in the administration of treatment shall be immune from civil or criminal liability for his actions in connection with the treatment. The offender may decline to participate in the evaluation or treatment plan by signing the consent/refusal for medroxyprogesterone treatment (Form B-06-002-A) indicating that he acknowledges his decision renders him ineligible for probation, parole, suspension of sentence or diminution of



sentence if conditioned by the court. However, the provisions of R.S. 15:828, R.S. 14:43.6 or C.Cr.P. Art. 895(J) may still be applicable (See Subsections F, G and H of this regulation for additional information.);

14. failure to continue or complete treatment shall be grounds for revocation of probation, parole, or suspension of sentence, or, if so conditioned by the parole board, revocation of release on diminution of sentence:

a. good time earned may be forfeited pursuant to R.S. 15:571.4. Should an offender in an institutional setting fail to continue or complete his sex offender treatment plan, an incident report shall be initiated and good time forfeited, if appropriate, pursuant to established policy and procedures;

15. wardens and the director of probation and parole shall ensure strict adherence to the procedures of this regulation.

F. Sex Offender Treatment Program Pursuant to R.S. 15:828

1. *Sex offenders* for the purpose of R.S. 15:828 and this Section are defined as persons committed to the custody of the Department of Public Safety and Corrections for a crime enumerated in R.S. 15:541. An individual convicted of the attempt or conspiracy to commit any of the defined sex offenses shall be considered a sex offender for the purposes of R.S. 15:828 and this Section.

a. Subject to the availability of resources and appropriate individual classification criteria, sex offenders as defined in Paragraph F.1 of this regulation and who are housed in a state correctional facility should be provided counseling and therapy by institutional mental health staff in a sex offender treatment program until successfully completed or until expiration of sentence, release on parole in accordance with and when permitted by R.S. 15:574.4, or other release in accordance with law, whichever comes first.

b. A sex offender treatment program means one which includes either or both group and individual therapy and may include arousal reconditioning. Group therapy should be conducted by two therapists, one male and one female. Subject to availability of staff, at least one of the therapists should be licensed as a psychologist, board-certified as a psychiatrist or a clinical social worker. A therapist may also be an associate to a psychologist under the supervision of a licensed psychologist.

c. Reports, assessments, and clinical information, as available, including any testing and recommendations by mental health professionals, shall be made available to the board of parole.

2. If the offender is convicted of a crime enumerated in R.S. 15:538(C), then he shall be treated in accordance with that statute and not R.S. 15:828.

G. Sex offender treatment program pursuant to R.S. 14:43.6:

1.a. notwithstanding any other provision of law to the contrary, the court may order an offender convicted of the following offenses:

i. R.S. 14:41—aggravated rape or first degree rape;

ii. R.S. 14:42.1—forcible rape or second degree rape;

iii. R.S. 14:43.2—second degree sexual battery;

iv. R.S. 14:78.1—aggravated incest committed prior to 6-12-14;

v. R.S. 14:81.2(D)(1)—molestation of a juvenile when the victim is under the age of 13;

vi. R.S. 14:89.1—aggravated crime against nature;

b. to be treated with medroxyprogesterone acetate (MPA) according to a schedule of administration monitored by the Department of Public Safety and Corrections. Upon a second conviction of the above enumerated offenses, the court shall order an offender to be treated with acetate MPA according to a schedule of administration monitored by the Department of Public Safety and Corrections;

2. if the court orders the offender to be treated with MPA, this treatment may not be imposed in lieu of, or reduce, any other penalty prescribed by law. However, in lieu of treatment, the court may order the defendant to undergo physical castration provided the offender files a written motion with the court stating that he intelligently and knowingly gives his voluntary consent to physical castration as an alternative to the treatment;

3. an order of the court sentencing the offender to MPA pursuant to R.S. 14:43.6 shall be contingent upon a determination by a court appointed medical expert that the offender is an appropriate candidate for treatment. This determination shall be made not later than 60 days from the imposition of the sentence. The court order shall specify the duration of the treatment for a specific term of years, or in the discretion of the court, up to the life of the offender;

4. in all cases involving the administration of MPA, the treatment shall begin not later than one week prior to the offender's release from incarceration;

5. the department shall provide the services necessary to administer the MPA treatment and shall not be required to continue the treatment when it is not medically appropriate as determined by the department;

6. if an offender fails to appear as required by the schedule of administration as determined by the department, or the offender refuses to allow the administration of MPA, the offender shall be charged with a violation of R.S. 14:43.6;

7. if an offender ordered to be treated with MPA or ordered to undergo physical castration takes any drug or other substance to reverse the effects of the treatment, he shall be held in contempt of court in accordance with R.S. 14:43.6;

8. if an offender is ordered by the court pursuant to R.S. 14:43.6, then he shall be treated in accordance with that statute and no others.

H. Sex Offender Treatment Program Pursuant to C.Cr.P. Art. 895(J)

1. In addition to other requirements of law and established policy and procedure, in cases where a defendant has been convicted of an offense involving criminal sexual activity, the court shall order as a condition of probation that the defendant successfully complete a sex offender treatment program. As part of the sex offender treatment program, the offender shall participate with a victim impact panel or program providing a forum for victims of criminal sexual activity and sex offenders to share experiences on the impact of the criminal sexual activity in their lives. The director of probation and parole shall establish procedures to implement victim impact panels. All costs for the sex offender treatment program, pursuant to this Paragraph shall be paid by the offender.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:538(C).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Corrections Services, LR 24:2308 (December 1998), amended LR 26:332 (February 2000), LR 38:1598 (July 2012), LR 42:424 (March 2016).

James M. Le Blanc  
Secretary

1603#037

## RULE

### Department of Public Safety and Corrections Liquefied Petroleum Gas Commission

Liquefied Petroleum Gas  
(LAC 55:IX.107, 133, 143, 155, and 183)

The Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission, in accordance with R.S. 40:1846 and with the Administrative Procedure Act., R.S. 49:950 et seq., has amended the following Sections: 107 with regard to general requirements of permit holders to include a change to permit fees, 133 which eliminates the commission's obligation to provide a list of acceptable manufacturers, 143 which eliminates the commission's obligation to perform a facility inspection every three years, 155 which deletes the need for a data report, and 183 which regulates the sale and storage of hydrocarbon refrigerants containing liquefied petroleum gasses.

#### Title 55

#### PUBLIC SAFETY

#### Part IX. Liquefied Petroleum Gas Commission

#### Chapter 1. General Requirements

#### Subchapter A. New Dealers

#### §107. Requirements

A. Before any permit or registration may be issued from the office of the director, all applicants shall have complied with or agree to comply with the applicable requirements as follows:

1. - 2. ...

3. Shall have proof of insurance on file in the office of the director on a commission proprietary certificate of insurance or one substantially equivalent issued by a Louisiana licensed agent in the minimum sum of \$1,000,000, in the classes of insurance as required by the commission. This certificate of insurance shall indicate the type and amount of coverage. This policy of insurance shall meet the proof of insurance as required by the commission. Said certificate shall be considered evidence of liability insurance coverage; said certificate shall state that in the event the insurance company cancels the insurance policy, the insurance company shall notify the office of the director 10 days prior to the date of cancellation. A binder of insurance coverage shall be acceptable as proof of insurance until the policy is issued and a certificate of insurance is issued. The \$1,000,000 requirement shall be effective on the first proof of insurance required after November 1, 2003. The commission shall provide the proprietary certificate of insurance form on its public web site for downloading or shall provide copies of the proprietary certificate of insurance form via facsimile or via U.S. mail upon request.

In lieu of the certificate of insurance for automobile liability, the commission may accept a certificate of self-insurance issued by the office of motor vehicles.

3.a. - 5.c. ...

6. Applicants shall have paid a permit fee in the amount of \$75, except for class VII-E, which shall be \$100, and R-1, R-2 registrations, which shall be \$37.50 and class VI-X shall be in the amount of \$75 for each location. For fiscal year 2014-2015, and for each subsequent fiscal year, the permit fee shall be 0.1369 of 1 percent of annual gross sales of liquefied petroleum gas with a minimum of \$75, except in the case of class VI-X for which the minimum permit fee shall be \$75 for the first each location, plus \$50 for each 2-11 locations, plus \$25 for each 12-infinity locations; or 0.1369 of 1 percent of annual gross sales of liquefied petroleum gases of all locations whichever is greater. For classes not selling liquefied petroleum gases in succeeding years the permit fee shall be \$75, except registrations shall be \$37.50 per year.

6.a. - 8.f.ii.(d). ...

(e). Proof of a passing grade, for purposes of certification, shall be maintained in dealer employee file. The employer shall maintain this record until one year after the employment has terminated.

9. - 14. ...

15. All classes of permit or registration holders shall display a copy of their permit in a prominent area at all locations utilizing said permit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1846.

HISTORICAL NOTE: Adopted by the Department of Public Safety, Liquefied Petroleum Gas Commission, November 1972, amended December 1974, LR 1:315 (July 1975), LR 4:86 (March 1978), LR 7:633 (December 1981), amended by the Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission, LR 11:557 (May 1985), LR 15:854 (October 1989), LR 16:1063 (December 1990), LR 20:1400 (December 1994), LR 24:461 (March 1998), LR 24:2311 (December 1998), LR 25:1262 (July 1999), LR 25:2410 (December 1999), LR 26:1487 (July 2000), LR 27:2256 (December 2001), LR 28:2553 (December 2002), LR 29:2509 (November 2003), LR 31:2567 (October 2005), LR 33:1140 (June 2007), effective July 1, 2007, LR 35:2201 (October 2009), LR 35:2465 (November 2009), LR 38:1256 (May 2012), LR 42:427 (March 2016).

#### §133. Shall Purchase Containers Manufactured by Manufacturers Acceptable to the Authority Having Jurisdiction

A. All liquefied petroleum gas containers purchased shall be manufactured by a manufacturer acceptable to the commission.

B. A manufacturer of liquefied petroleum gas containers shall be listed by the commission as acceptable when it has met or exceeded the requirements of chapter 5, NFPA 58, 2008 edition and provided documentation acceptable to the commission of the same.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1846.

HISTORICAL NOTE: Adopted by the Department of Public Safety, Liquefied Petroleum Gas Commission, November 1972, amended December 1974, amended by the Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission, LR 24:465 (March 1998), LR 38:1263 (May 2012), LR 42:427 (March 2016).

**§143. Inspections**

A. Each dealer facility subject to the regulations of the commission shall submit to an inspection by a representative of the commission.

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1846.

HISTORICAL NOTE: Adopted by the Department of Public Safety, Liquefied Petroleum Gas Commission, November 1972, amended December 1974, amended by the Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission, LR 11:559 (May 1985), LR 38:1264 (May 2012), LR 42:428 (March 2016).

**Subchapter C. Manufacturers of Liquefied Petroleum Gas Containers**

**§155. Data Reports**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1846.

HISTORICAL NOTE: Adopted by the Department of Public Safety, Liquefied Petroleum Gas Commission, November 1972, amended December 1974, amended by the Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission, LR 15:860 (October 1989), LR 38:1265 (May 2012), repealed LR 42:428 (March 2016).

**Subchapter I. Adoption of Standards**

**§183. Use of Liquefied Petroleum Gas as a Refrigerant Prohibited**

A. ...

B. Hydrocarbon refrigerants containing liquefied petroleum gasses is strictly prohibited for sale, storage inside buildings and use in refrigeration systems within the borders of the state of Louisiana. Specific exceptions to this regulation can be found in the United States Environmental Protection Agency (EPA) regulations 40 CFR Part 82.

C. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1846.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission, LR 23:990 (August 1997), amended LR 29:2511 (November 2003), amended LR 38:1271 (May 2012), LR 42:428 (March 2016).

John W. Alario  
Executive Director

1603#023

**RULE**

**Department of Public Safety and Corrections  
Office of State Police**

Motor Vehicle Inspections (LAC 55:III.Chapter 7 and 8)

The Department of Public Safety and Corrections, Office of State Police, in accordance with R.S. 49:950 et seq., Act 138 of the 2009 Regular Session, and R.S. 32:1304 et seq., has amended its rules to clarify the civil penalty process, revise the license application and renewal process, add required inspection tools, add grounds for rejection of an inspector, specify educational requirements for inspectors, clarify the procedures for two year certificates, address NSF checks, clarify window tint requirements, specify requirements for side marker lights and reflectors, clarify

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requirements for buses, and specify inspection requirements for commercial motor vehicles and other miscellaneous amendments.

**Title 55**

**PUBLIC SAFETY**

**Part III. Office of Motor Vehicles**

**Chapter 7. Louisiana Motor Vehicle Safety  
Inspection Program**

**§701. Foreword**

**(Formerly §803)**

A. The inspection of vehicles as prescribed in the Louisiana motor vehicle inspection law is conducted in privately-owned businesses which have been approved by the Louisiana Department of Public Safety and Corrections. Although these approved inspection stations are privately owned businesses, the inspection of vehicles in compliance with the law is not entirely a private matter. During the course of performing these inspections, the station and its personnel are acting as representatives of the state of Louisiana. The guiding principal of station personnel should be, and must be, providing honest and efficient service to the citizens of our state.

B. Official motor vehicle inspection station operators and employees should be courteous and patient when explaining that the requirements of the motor vehicle inspection laws are designed to promote safety. It should be clearly understood by all employees that the primary function of the inspection station is not an arbitrary enforcement of the law but rather the advancement of highway safety.

C. All inspection station personnel must adopt the attitude that they sell safety. They must also bear in mind that the placement of one inspection certificate on an unsafe vehicle may be the cause of a serious crash. They owe a duty to themselves, their families, other vehicle owners and operators not to jeopardize lives through error, carelessness or indifference.

D. The official motor vehicle inspection station license may be revoked if any station owner, operator or employee fails to achieve and maintain a priority standard of service to the motoring public.

E. Each official motor vehicle inspection station shall give priority to customers seeking motor vehicle inspections. Reasonable time shall be considered when the inspector is committed to other duties, (clean up, hazardous situation).

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1304-1310.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Safety Enforcement Section, LR 25:2421 (December 1999), amended by the Department of Public Safety and Corrections, Office of State Police, LR 38:2550 (October 2012), LR 42:428 (March 2016).

**Chapter 8. Motor Vehicle Inspection**

**Subchapter A. General**

**§803. Penalties for Non-Compliance**

**(Formerly §701)**

A. Civil penalties shall be assessed as described in R.S. 32:1312.

1. If an inspection station or mechanic inspector receives three written violation notices within a 12-month period, this shall be grounds to remove said inspection station or mechanic inspector from the Motor Vehicle Safety Inspection Program. This in no way intends to impede the

ability of the department from removing an inspection station or mechanic inspector at any time with proper cause.

2. The department shall impose civil penalties after affording the accused an opportunity for a fair and impartial hearing to be held in accordance with the Administrative Procedure Act.

3. Failure to pay civil penalties that have been finally adjudicated and upheld may result in the immediate suspension of the station or inspectors license. The department may prohibit the station from purchasing inspection certificates, and/or selling, issuing or conducting inspections until the penalty has been satisfied.

4. All licensees and applicants shall be current in the payment of all penalties and fees owed to the Department of Public Safety. Companies failing to comply with this requirement are subject to having their station's license suspended or revoked.

B. To maintain the integrity of the program and the safe operation of vehicles of the motoring public, the following violations are considered serious offenses. The mechanic inspector's license and/or the motor vehicle station's license may be revoked immediately upon a finding by the department of such violations. Upon the revocation of the station license/or mechanic inspector's license, he/she shall have the right to request a hearing in reference to the violations but the license shall remain revoked until the date of the hearing and the ruling from the administrative law Judge. The request for an administrative hearing shall be in writing and must be received by the department within 30 days from the date the license of the station/mechanic inspector was revoked:

- 1. 55:805F3, allowing uncertified mechanics to inspect;
- 2. 55:805F9, illegal sale of inspection certificates. This shall include the sale of fraudulent MVI Certificates, rejection certificates or any insert that is attached to the MVI certificate;
- 3. 55:805G2, involvement in criminal activity of a felony nature;
- 4. 55:807I3, intentionally falsifying of report (written or electronic);
- 5. 55:809A1, intentionally overcharging for inspections.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1310 and 32:1312 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 21:184 (February 1995), amended LR 38:2550 (October 2012), LR 42:428 (March 2016).

**Subchapter B. Safety Inspections**  
**§805. Requirements**

A. The Department of Public Safety, upon application and issuance of a motor vehicle inspection license, will authorize a station to conduct certain type inspections. The inspections will be designated by the station number issued to it. Below is an example of a station number.

EXAMPLE NUMBER P03255A-ABCDG  
(1) (2) (3) (4)  
P 03255 A BCDG

Position (1) Denotes type of station- P=Public  
D=Dealer  
F=Fleet  
G=Government

Position (2) Denotes station number

Position (3) Denotes Troop Area the MVI station is located in.

Position (4) Denotes the type of inspection the station is allowed to perform-

- B-School Buses
- C-Commercial Motor Vehicle Inspections
- D-Non-attainment emission testing
- G-General inspections-(automobile, trucks, suv's, trailer
- M-Motorcycles

B. Classes of Inspection Stations. The classes of Official Motor Vehicle Inspection (MVI) Stations authorized in Louisiana are:

1. Public Station. Stations authorized by the Louisiana Department of Public Safety and Corrections to inspect any and every vehicle presented for inspection. When warranted and approved by the department, certain stations may be designated to inspect only specific classes of vehicles. When authorizing a public station to inspect only a certain class vehicle, the class of vehicle to be inspected and justification for each authorization shall be noted in the remarks section of the station application form. Such stations will display a sign immediately adjacent to the official Motor Vehicle Inspection sign designating the classes of vehicles which can be inspected. The designation of a specific class of vehicle to be inspected by a station may be as follows:

- a. trucks and trailers only;
- b. passenger vehicles and light duty trucks only;
- c. motorcycles only; and
- d. stations inspecting commercial vehicles and school buses are required to have special authorization from the department.

2. Dealer Station. Any person, association or corporation licensed as a dealer of vehicles which are subject to registration may be licensed as an official MVI dealer inspection station. These stations may only conduct inspections of both new and used vehicles owned by the dealer which are for sale or demonstration. A notation will be made in the remarks section of the application form indicating what type of vehicles is to be inspected. When a dealer is authorized to inspect, it is mandatory that all vehicles sold as new or used must be properly inspected and a valid inspection certificate affixed thereto as prescribed by the official rules and regulations under LAC 55:III.Chapters 7 and 8.

3. Fleet Station. Any motor vehicle repair or maintenance shop operated or maintained by a person, firm or corporation in whose name 10 or more vehicles are licensed under the provisions of R.S. 47:462, may be designated as an official fleet MVI station. Fleet stations may inspect only those vehicles registered to or under bona fide lease to the company designated as an official fleet inspection station;

4. Government Station. A town, municipality, city, parish or state agency to which the department has granted authority to inspect vehicles owned and registered to these government agencies. These stations will not be approved unless they have their own repair shop; a school board may be granted authority to inspect and certify vehicles operated or contracted by that board.

5. Non-attainment area stations are inspection stations receiving specialized training and licensing. Only non-attainment area stations are permitted to inspect vehicles registered within this area that are subject to the inspection and maintenance (I/M) program as provided in 32:1306(B)(3) and LAC 55:817. The nonattainment area consists of five parishes. These parishes are designated by the four-digit domicile code on the registration. Domicile codes beginning with 03 (Ascension Parish), 17 (East Baton Rouge), 24 (Iberville Parish), 32 (Livingston Parish), or 61 (West Baton Rouge) are within the non-attainment area.

C. Request for Appointment as an Official Inspection Station

1. A written request must be submitted to the department at the main office located at 7919 Independence Blvd., Baton Rouge, LA 70806 in order to become an official MVI station. The request can be mailed or faxed. A representative of the department will be assigned to inspect the premises and interview the personnel to determine that all minimum requirements are met.

a. A background check including a criminal history check will be conducted on each applicant applying for a Motor Vehicle Inspection Station License. Applicants with felony backgrounds may be refused to be licensed.

2. Should a person, firm or corporation currently operating a motor vehicle inspection station make application to add commercial inspections at their location, a thorough investigation and evaluation of the performance of the existing station will be conducted. Should the investigation show that the existing station has been operated within the rules and regulations of the motor vehicle inspection program, and the owner/operator has demonstrated a willingness and desire to fulfill all of the obligations and responsibilities as an MVI station operator, the application for the new station, if all other requirements are met, may be approved.

D. Minimum Requirements for a Motor Vehicle Inspection Station

1. The following minimum requirements must be met prior to approval as an official MVI station:

a. the prospective MVI station must project an image of a clean and orderly place of business;

b. MVI station locations must comply with current local occupational, zoning and building inspection codes, and must be current at the time of application or occupation

i. must submit a copy of the occupational license for the MVI station;

ii. if building is leased, must show a written lease agreement. The lease must be at least a minimum of six months. Verbal leases will not be allowed;

c. must have a covered vehicle stall or bay, with a roof and two permanent connecting walls, large enough to accommodate the inspection of a full-sized motor vehicle.

E. Renewal of Motor Vehicle Inspection Station License

1. All motor vehicle inspection licenses expire on December 31 of each calendar year.

a. Completed renewal packets should be returned to the department 30 days prior to the expiration of the station/mechanic license.

i. All outstanding civil penalties must be paid prior to issuance of the new MVI license.

ii. If all required paperwork and fees are not submitted, the station license will not be renewed.

b. If the motor vehicle inspection station license has not been renewed by January 1 of the following calendar year, the station must stop conducting all MVI inspections until the license has been renewed and the new license is received by the station from the MVI officer.

c. If the MVI station fails to renew their MVI license by February 1 following the expiration of their expired MVI license, the station license shall be revoked until the following conditions are met:

i. must submit paperwork as required for a new station and must meet all new station/mechanic inspector requirements as stated in this Section. It is the station's responsibility to contact the office if it did not receive its station renewal and complete and return it before the new calendar year;

ii. must pay all outstanding civil penalties.

F. Space Requirements

1. All motor vehicle inspections, including the brake check, must be conducted on the premises licensed and must be conducted on a hard surface (concrete or asphalt). A minimum of 150 feet will be required to conduct the brake test, and must be conducted in a safe location. Officers may reject any applicant if the station does not have the required space to safely conduct inspections. Notwithstanding any law, rule or administrative policy to the contrary, official MVI stations shall not be required to reserve a service bay or stall for the exclusive purpose of conducting motor vehicle inspections, but such stall or bay must be cleared and available within 20 minutes from the time an inspection is requested.

G. Equipment Required for Safety Inspections

1. The following required equipment will be readily accessible during inspection hours and in good working order:

a. windshield scraper for removing old certificates;

b. numerical stamps (#1 through #12) 1 inch in size,

an X stamp, and a black indelible ink stamp pad;

c. tire depth gauge;

d. measuring tape at least 6 feet in length;

e. flashlight;

f. tint meter (two-piece type);

g. adjustable mirror; and

h. a telephone number listed under the name of the station as it appears on the station license, with a telephone located at the place of business. All stations in the non-attainment area shall have the ability to access a telephone and the world wide web simultaneously during normal hours of operation;

i. on board diagnostic systems test equipment and evaporative system test equipment which includes gas cap pressure test equipment as per the United States Environmental Protection Agency (U.S. EPA) specifications.

Stations must have such approved equipment readily accessible and in good working order. This equipment must be in or near the inspection area. The provisions of this Subparagraph shall only apply to inspection stations located in the non-attainment area. Any inspection station incorporated into a new DEQ emissions control program non-attainment area shall adhere to U.S. EPA specifications;

j. mechanic's creeper. The provisions of this Subparagraph shall only apply to stations that conduct commercial and school bus inspections;

k. soapstone marker. The provisions of this Subparagraph shall only apply to stations that conduct commercial and school bus inspections;

l. two wheel chocks (commercial and school bus inspection only);

m. floor jack or lift or two jack stands. This equipment must be capable of lifting and safely holding up the vehicle being inspected.

n. a current Federal Motor Carrier Safety regulation handbook (updated within one calendar year) as prescribed by: the U.S. Department of Transportation, Federal Motor Carrier Safety Administrations, parts 40, 303, 325, 350-399 (commercial and school bus inspections only);

o. brake chamber tool (commercial and school bus inspections only);

p. tire pressure gauge;

q. a current e-mail address from the station;

r. additional equipment may be required by the department as it may be deemed necessary, for the proper operation of an inspection station. The department shall give prior written notice of any additional equipment requirements. After such written notice is given, such additional equipment requirement shall be enforced as if included in these rules.

H. Responsibility of Station Owner or Operator. Upon application for designation as an official MVI station, the owner/operator has pledged himself to:

1. act as directed by the department when inspecting vehicles in accordance with these rules;

2. maintain a current, updated official rules and regulations on the premises at all times. The manual will be maintained in good condition and be readily available to the mechanic inspector. Any changes in official rules and regulations received by the station operator must be placed immediately in the station's official rules and regulations manual. It is the owner/operator's responsibility to ensure all of his employees involved in the inspection program are aware of any changes;

3. use only employees authorized and licensed by the department to perform the actual inspection of motor vehicles;

4. conduct honest, thorough and efficient inspections in accordance with motor vehicle inspection laws and the department's regulations;

5. maintain in good working order all required tools and equipment described in the minimum requirements, and to cease operations immediately and contact the Department of Public Safety, MVI Section when this condition is not met;

6. maintain a clean and orderly place of business and shop. The owner/operator is responsible for his employees in this respect;

7. refrain from the use of alcohol or drugs while on duty. MVI stations shall not be located on the premises or property where alcoholic beverages are sold;

8. keep an adequate supply of both inspection and rejection certificates and all necessary forms on hand at all times; adequate supply shall be considered 15 certificates or more;

9. perform inspections and affix certificates of inspection only at the business location designated on the station license, affix valid certificates of inspection only to those vehicles which have been properly inspected and have passed the safety and/or emission requirements;

10. have at least one approved mechanic inspector on duty to make inspections during the hours of business each normal working day;

11. must be open a minimum of 40 hours per week. The days and hours the station is open will be determined by the station owner and approved by the department. The days and hours of operation must be posted on the MVI sign;

a. if a station is required to close for any reason during its posted hours, the station owner or operator must notify the MVI Section by phone, fax or e-mail before closing;

12. ensure that all mechanic inspectors attend all meetings, training programs and various schools required by the Louisiana Department of Public Safety and Corrections;

13. be responsible for the actions of his mechanic inspectors in all matters relating to motor vehicle inspections. All civil penalties will be addressed to the station and the payment of penalties will be the responsibility of the owner/operator. The station owner/operator is responsible for all violations and fines concerning the operation of his/her station including the actions of his/her mechanic inspectors;

14. immediately follow all directives and instructions issued by the department; and

15. properly inform all employees of the rules and regulations set forth herein. Continued supervision of all mechanics authorized to inspect motor vehicles must be maintained;

16. contact the Motor Vehicle Inspection Section of the Louisiana Department of Public Safety and the Department of Environmental Quality of any changes in mechanic inspectors.

I. Requirements for Approval of Mechanic Inspectors. Before any mechanic can perform inspections, the department shall review the mechanic's qualifications and may authorize him to inspect. The following requirements shall be met by each applicant prior to being approved as a mechanic inspector:

1. shall be at least 18 years of age;

2. a criminal history check shall be conducted on all new and renewal applicants who are requesting to be licensed as a mechanic inspector. The following will be grounds for rejection of a mechanic inspector application:

a. a felony conviction for an offense related to the operation of a motor vehicle within five years of application;

b. any conviction as defined in R.S. 14:2(B);

c. any person who is registered as a sex offender or a child predator;

3. shall be able to read and write the English language. They shall be able to complete MVI certificates and reports accurately and legibly;

4. shall possess a valid Louisiana operator's license. The operator's license shall not be subject to any order of suspension, revocation or cancellation or any other order or action which prevents the issuance of a duplicate or renewed operator's license. An approved mechanic inspector residing in a bordering state or those on active military duty shall furnish a valid operator's license from their resident state along with a copy of their driving record. The suspension, revocation, or cancellation of a mechanic inspector's operator's license shall be grounds to suspend his authority to inspect vehicles. A mechanic inspector shall notify the department immediately of such suspension, revocation, or cancellation of his operator's license;

5. shall successfully complete a training program offered by a state accredited and department approved post-secondary educational institution (which shall include community colleges and vocational-technical schools). The instructor of this program shall possess at least two years of previous automotive/truck mechanic experience or be an ASE-certified master technician. The curriculum of this training program shall be subject to review of, and approval by, the department to ensure inclusion of all aspects of the Motor Vehicle Inspection Program. A mechanic inspector employed by a station approved to inspect school buses and commercial vehicles shall also be properly trained in those areas prior to licensure. A mechanic inspector to be employed by a station within the five parish nonattainment area must first successfully complete special training related to emissions testing. A mechanic inspector whose license has not been current for a 12-month period shall successfully complete a new training program in order to renew his license;

6. a mechanic may be approved to inspect at more than one location. A separate application and fee for each location must be submitted;

7. upon completion of the training program, and submission of the mechanic inspector application's current fee, the mechanic will be certified as a mechanic inspector. The department will re-issue the station license with the new inspectors name noted on the license. The inspector may be required to show proficiency and knowledge of the inspection procedures before he/she is allowed to conduct inspections even after attending the class. A mechanic inspector must have successfully completed the MVI school from which he/she is to be licensed or have been licensed by the department within the previous 12 months. If not, the mechanic inspector must attend the motor vehicle inspection class that he wishes to be certified in.

#### J. Duties and Responsibilities of Authorized Mechanic Inspectors

1. The authorized mechanic inspector shall:
  - a. always properly and thoroughly conduct an official inspection of vehicles presented for that purpose;
  - b. only affix inspection certificates to an approved vehicle. By doing this, he is placing a certificate of safety on the vehicle, indicating it is safe for operation on the highway;
  - c. be sure that no life may be jeopardized by his error, carelessness or indifference;

d. owe a duty to his employer, who has pledged to assist in safeguarding the lives of motorists, to ensure against the operation of unsafe vehicles;

e. inform the owner/operator of the actual condition of his vehicle after completion of an inspection;

f. verify that all equipment is of an approved type and is properly adjusted as prescribed. Evaporative system test equipment must be properly calibrated as recommended by the manufacturer;

g. perform each inspection with the understanding that he assumes full responsibility for the quality of the inspection when he signs the inspection certificate and places his name on the station's weekly/monthly log report;

h. always remember that he has been authorized to inspect vehicles because he has demonstrated the knowledge to act as an agent of the state of Louisiana when inspecting vehicles;

i. abide by the inspection laws, rules, regulations and/or procedures. Failure to do so by an authorized mechanic inspector may result in a civil penalty being imposed and could result in the permanent revocation of inspection privileges and may subject him/her to criminal and or civil prosecution;

j. when changing employment from one inspection station to another, the mechanic inspector or station shall inform the department that he is no longer employed by the inspection station;

k. determine whether the vehicle being presented for inspection should be inspected under the normal inspection procedures, school bus regulations or commercial criteria. The inspector shall not examine a vehicle he is not certified to inspect.

2. The department reserves the right to withdraw for cause its authorization of any mechanic inspector or to re-examine a mechanic inspector at any time. If a mechanic inspector has been unlicensed for one year or more he must be re-trained before inspecting any vehicle.

#### K. Approval as an Inspection Station

1. No inspection station shall be appointed as an official motor vehicle inspection station until all of the requirements have been met.

2. If the application is approved, the applicant will be notified. Once the applicant provides a permit fee, an MVI station license will be issued to the applicant. The station will be required to pay an annual renewal fee. An applicant for a public motor vehicle inspection station shall also provide a \$5,000 bond.

3. When all conditions have been met, the station license will be mailed or delivered to the station by a representative of the department appointed to supervise the station. The station license will be presented to any law enforcement officer upon demand.

L. Any applicant who is issued a new station or mechanic inspector license by the department shall be required to serve a one-year probationary period. The department may revoke the license for any violation under the Motor Vehicle Inspection Program contained in this Chapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1304-1310.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Safety

Enforcement Section, LR 25:2422 (December 1999), amended LR 27:2260 (December 2001), repromulgated LR 28:344 (February 2002), amended by the Department of Public Safety and Corrections, Office of State Police, LR 38:2550 (October 2012), LR 42:429 (March 2016).

**§807. Operation as an Official Motor Vehicle Inspection Station**

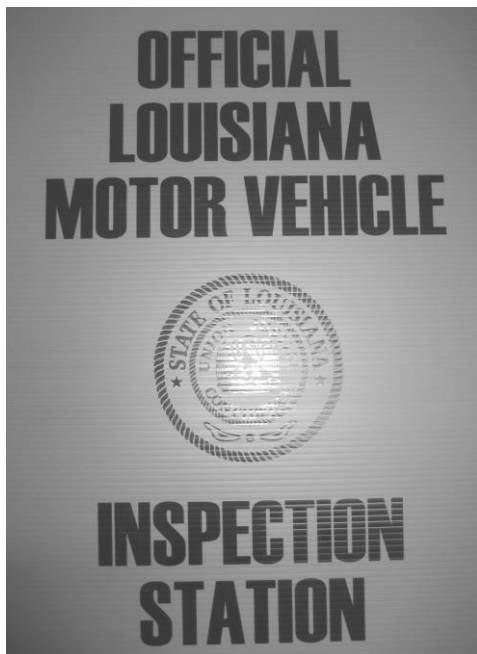
A. Change of Name, Location and/or Ownership  
 1. Persons operating under a motor vehicle inspection station license contemplating a change of name, location and/or ownership must notify the department in writing before a change is made. All changes must be approved by the department prior to being made by the station. A change in location and/or ownership will require that the new owner/location must meet the current requirements in LAC 55:III.Chapters 7 and 8 of the Motor Vehicle Inspection Program.

2. The new location or owner shall meet all requirements under §805.D of this Chapter (minimum requirements for a motor vehicle inspection station).

B. Going Out of Business or Discontinuance of Inspections

1. ...  
 C. Official Motor Vehicle Inspection Sign (Public Stations Only)

1. ...  
 a. Sample of Official Motor Vehicle Sign



2. ...  
 3. The station shall display the price for the one-year and two-year certificate on or near the official MVI sign. If the station conducts emission inspections, it shall also display the price for such inspection.

**D. Periods of Inspection**

1. All vehicles inspected under the provisions of R.S. 32:1301 through R.S. 32:1314 (motor vehicle inspection law) shall be inspected at least bi-annually.

a. ...  
 b. The fee for inspection of a passenger car or light truck and all other vehicles shall be \$10 for a one-year certificate and \$20 for a two-year certificate except in non-attainment parishes. The owner has the option of requesting either a one- or two-year certificate.

c. Vehicles that are registered inside the non-attainment area and/or vehicles that are registered outside the non-attainment area that are presented for inspection in the non-attainment area that fall within the guidelines of LAC 55:III.807.B shall be issued a one-year certificate only and be assessed an \$18 inspection fee.

i. Cars, light duty trucks, and trailers registered or inspected in the non-attainment area that do not meet the criteria for the enhanced emission testing as stated in LAC 55:III.807.B can at the owners discretion be issued a one- or two-year certificate as stated in Subparagraph D.1.a of this Section.

**D.2. - F.1. ...**

2. Demands for inspection or rejection certificates should be anticipated before the station's supply is depleted. Every motor vehicle inspection station will be required to have 15 certificates or more on hand at all times.

**3. - 4. ...**

5. Motor vehicle inspection certificates and rejection certificates, and requisition forms may be obtained from the Office of Motor Vehicles.

6. If a station submits funds which are returned NSF from the bank, the station license shall be suspended until the Office of Motor Vehicles receives the funds and penalties associated with the NSF check.

a. If the station does not satisfy the NSF check within 30 days from date of suspension, the station's license shall be permanently revoked and the station will have to re-apply as a new station once all funds and penalties have been received by the Office of Motor Vehicles. The station will have to meet all present requirements as a new station applicant.

b. If the owner of the MVI station is also the owner of the station's property, a license will not be issued to any other applicant who applies for a license on that property until the Office of Motor Vehicles receives the funds and penalties associated with the NSF check.

**G. Lost or Stolen Inspection/Rejection Certificates**

1. All inspection/rejection certificates and inserts are the property of the Louisiana Department of Public Safety and Corrections and must be safeguarded against loss. They must be kept in a secure place under lock and key, available only to the mechanic inspector. (Inspection/rejection certificates can only be placed on an inspected vehicle.)

2. Each inspection station will be accountable for each inspection/rejection certificate and inserts it receives from the department. Lost or stolen certificates must be accounted for on the log report by numerical listing. In lieu of the inspection information, the word "lost" or "stolen" must be noted on the log report by that certificate number.

3. Should an inspection/rejection certificate or insert be lost or stolen, the department must be notified



immediately. If a theft is suspected of an inspection or rejection certificate, the local law enforcement agency shall be asked to investigate the theft and the MVI station must forward a copy of the police report to the department.

4. ...

H. Warning Notices. A written warning may be issued by a representative of the department for any infraction of the rules and regulations. This will become a permanent part of the station's file and will be a basis for determining the issuance of a civil penalty, suspension or revocation.

#### I. Motor Vehicle Inspection Log Report

1. All entries must be legible and made in ink only. The audit number of the inspection or rejection certificates issued must be listed in numerical order and must be shown on the report. All other required information must be provided for the vehicle inspected. Vehicle information will be obtained from the registration. The operator's license number must be taken from the driver's license of the person presenting the vehicle for inspection and not from the registration.

a. Stations that are required to maintain log sheets shall maintain the log sheets for 36 months.

i. General MVI Stations. A separate log shall be kept for the one- and two-year certificates.

Exception: Log sheets are not required to be utilized if a station is required to enter the inspection information on the DEQ computer system.

ii. Commercial MVI Stations. The station must maintain a copy of each commercial log sheet.

2. Torn, voided or damaged inspection or rejection certificates must be recorded on the log report. All information required shall be listed on the log sheet and the station shall write torn, voided, or damaged in the signature block. The torn, voided or damaged inspection/rejection certificates shall be attached to the log sheet.

a. stations in the non-attainment area who utilize the DEQ computer system shall also keep a log of all torn, voided, or damaged inspection/rejection certificates and emission inserts. The non-attainment station must comply with Paragraphs 1 and 2 of this Subsection. The non-attainment station that issues a certificate due to the challenge station advising the station to issue a MVI certificate must use the same log as stated above.

3. Falsifying information on any official document, including the inspection report, or computer is a criminal offense. Felony charges may be brought against anyone providing fraudulent information on an inspection report or forging anyone's signature.

4. ...

5. Log reports shall be kept in the log book at the Motor Vehicle Inspection station for 36 months. These reports shall be available for inspection by department personnel or law enforcement officers. After 36 months, a station may destroy the log sheets by burning or shredding.

6. Stations in the non-attainment area which are required to submit their inspection information electronically must do so in real time.

a. Stations in the non-attainment area that are licensed to inspect commercial vehicles must maintain a copy of each commercial log sheet for 36 months.

7. Official motor vehicle inspection stations can obtain copies of the log sheets from the Louisiana State

Police website at [www.lsp.org](http://www.lsp.org). Copies of log sheets may be made, but they must be similar to the state log sheet and contain the same information and in the same order.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1304-1310.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Safety Enforcement Section, LR 25:2424 (December 1999), amended 27:2260 (December 2001), repromulgated LR 28:345 (February 2002), amended LR 30:2859 (December 2004), amended by the Department of Public Safety and Corrections, Office of State Police, LR 38:2552 (October 2012), LR 42:433 (March 2016).

#### §809. General Inspection Requirements

##### A. Fees for Inspection

1. The fee for safety and commercial inspections will be the current fee set by law for each inspection performed, whether it was approved or rejected. No sales tax or late penalty fees will be collected on inspections.

2. A rejected vehicle is entitled to one free re-inspection if returned to the same inspection station within 30 days.

##### B. Repairs or Adjustments

1. The owner of a vehicle is under no obligation to have defects corrected by the inspection station. The owner may have the vehicle repaired where he chooses or may repair the vehicle himself. The inspection station is only required to perform a complete and proper inspection.

##### C. Issuance of Inspection Certificates

1. An inspection certificate will be issued for every vehicle inspected which passes the safety and/or emission requirements. The month that a certificate is issued shall be indicated by an insert placed in the appropriate area of the certificate. The year the certificate expires will also be indicated by an insert placed in the appropriate block on the certificate. All of the information on the back of the sticker must be filled in with black indelible ink. The certificate will be firmly attached to the lower left-hand corner of the windshield as viewed from the driver's seated position. Under no circumstances will an inspection certificate be applied to the windshield without the month and year of expiration being noted in the appropriate blocks provided.

2. ...

3. When inspecting motorcycles, motor-driven cycles, trailers and semi-trailers, an "X" will be stamped on the face of the inspection certificate, between the month and year insert. Under no circumstances will the stamp cover the month nor the year of expiration insert or the audit number of the inspection certificate. Inspection certificates of this type will be attached to the registration certificate for the vehicle.

4. - 6. ...

7. Only year inserts (issued by the Office of Motor Vehicles) shall be placed on MVI certificates. Under no circumstance shall a station stamp or write the year on the certificates.

8. Inserts must be properly affixed to the sticker with the month and year in the proper area on the sticker.

##### D. Issuance of Rejection Certificates

1. When a vehicle is presented for inspection and fails to pass the safety or emission standards, the current fee will be charged for the service of inspecting the vehicle. The owner or operator will be advised of the defects causing the vehicle to fail inspection.

a. When a vehicle is presented for inspection and the owner/operator requests a one- or two-year inspection and the vehicle is rejected, the station must charge for the sticker that was requested.

2. - 5. ...

6. All rejection certificates must be entered in the weekly log report in numerical order and must be accounted for. The log report must indicate the items found defective by making a notation in the appropriate blocks provided. In the non-attainment area, the same information shall be entered in the station's computer. The reverse side of the rejection certificate must also indicate the defective items found.

7. Should the owner or operator of a rejected vehicle refuse to accept the rejection certificate, it will be noted as such on the log report. The completed rejection certificate will be attached to the log report and kept with the station. In the non-attainment area, the station shall keep a file for all rejection certificates that have been refused.

8. The rejection certificate must be filled out in ink only. It will be noted on the reverse side of the rejection certificate, the date of inspection, a brief description of the vehicle and the expiration date of the rejection certificate. The face of the rejection certificate will be stamped with the number of the month in which the vehicle was inspected.

D.9. - E.2.f. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1304-1310.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Safety Enforcement Section, LR 25:2426 (December 1999), amended by the Department of Public Safety and Corrections, Office of State Police, LR 38:2553 (October 2012), LR 42:434 (March 2016).

#### **§811. Inspection Procedures**

A. The mechanic inspector shall record the expired sticker number on the log report then remove the expired sticker prior to continuing with the inspection. The expired motor vehicle inspection sticker must be immediately destroyed.

B. - B.2. ...

3. License Plate. The registration indicates a license plate number and expiration date of the plate. This information must correspond with the information displayed on the vehicle. The license plate cannot be expired. An out-of-state vehicle may be inspected, as long as it meets the criteria.

a. Vehicles which display apportioned license plates for trucks which travel out of Louisiana are issued a Louisiana apportioned cab card in lieu of a registration. The cab card will indicate an expiration and a grace period.

b. - e. ...

4. Operator license must be valid and in the immediate possession of the vehicle operator. It must be presented to the mechanic inspector, and the license number must be taken from the driver's license and recorded in the appropriate block on the log report or DEQ computer system.

a. - d. ...

5. Proof of current liability insurance must be shown to the mechanic inspector. Electronic proof of insurance will be accepted. The vehicle operator must also sign the log report indicating the vehicle is covered by liability

insurance. (Note: Government vehicles are exempt from furnishing proof of insurance.) One of the following must be presented as proof of insurance. Although a trailer is not required to have liability insurance, the inspector must verify that the towing unit complies with one of the below requirements.

B.5.a. - C. ...

D. Every motor vehicle, trailer, semi-trailer and pole trailer registered in this state shall bear a valid safety inspection certificate issued in the state of Louisiana except as provided in R.S. 32:1311.

E. ...

F. State mechanic inspectors must check registrations prior to inspecting vehicles. Any vehicle registered in the municipalities of New Orleans, Kenner or Westwego must be inspected in those municipalities. In addition, inspectors must refer to the four-digit domicile code on the registration. Effective January 2000, any vehicle registered with a domicile code beginning with 03 (Ascension Parish), 17 (East Baton Rouge Parish), 24 (Iberville Parish), 32 (Livingston Parish), or 61 (West Baton Rouge Parish), and that are subject to the Inspection and Maintenance (I/M) Program as provided in R.S. 32:1306(B)(3) and LAC 55:III.817 must be inspected within that five-parish area.

G. - I. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1304-1310.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Safety Enforcement Section, LR 25:2427 (December 1999), amended by the Department of Public Safety and Corrections, Office of State Police, LR 38:2553 (October 2012), LR 42:435 (March 2016).

#### **§813. Required Equipment**

A. The below items in Subsections B-FF of this Section shall be inspected by the mechanic inspector when an inspection certificate or a rejection is given to the vehicle being presented for an inspection. Inspected items must be in proper condition and adjustment such that the item does not pose an unsafe condition as to endanger any person or property.

B. Speedometer/Odometer

1. The speedometer and odometer must be operational.

2. The speedometer shall indicate miles per hour (mph) traveling.

3. The actual mileage must be recorded on the log report.

C. Horn

1. - 4. ...

D. Brakes

1. Every vehicle required to be equipped with brakes must be tested by conducting a road test on the approved brake test area. The mechanic inspector shall take physical control of the vehicle presented for inspection to determine if the brakes are operating correctly, except motorcycles.

2. The test for stopping distance shall be made on a substantially level, smooth, hard surface that is free from loose material and is at least 150 feet in length. The vehicle shall not pull to the right or the left causing the vehicle to excessively alter its direction of travel.

3. ...

4. Classifications for Brake Application

a. - c. ...  
d. Buses, regardless of the number of axles, not having a manufacturer's gross weight rating shall have a braking distance of 40 feet.

e. All combinations of vehicles in drive away, tow-away operations shall have a braking distance of 40 feet.

f. All other vehicles and combinations with a GVWR of 10,000 or more pounds shall have a braking distance of 50 feet. This includes car and trucks towing a trailer over 3,000 lbs and under 10,000 lbs.

E. - F.1. ...

G. Lighting System

1. All exterior required bulbs or sealed beams must light when activated. All lamps must be of an approved type as stated in R.S. 32:330.

2. - 11. ...

12. - 12.b. Repealed.

H. - J.1. ...

2. Vehicles manufactured or assembled after December 31, 1962, must be equipped with at least two tail lamps.

J.3. - L.3. ...

4. No tint shall obscure the high mount brake light.

M. - N.1. ...

2. The lamp is to be lighted with white light only when headlamps or auxiliary driving lamps are lighted. The use of neon lights or the use of any other lights which obscure the license plate is prohibited.

O. Outside/Inside Rearview Mirrors

1. - 3. ...

4. All vehicles manufactured after December 31, 1972, must be equipped at the factory with a left-hand, outside rearview mirror. This includes motorcycles and motor-driven cycles. If two outside mirrors are utilized, no inside mirror is required. If equipped with right outside mirror, it must comply with Paragraph 2 of this Subsection.

P. - P.7. ...

Q. Windshield Washers

1. The windshield washing system upon a vehicle that is not more than six years old from the date of manufacture or assembly shall be maintained in good working order.

R. Windshields

1. - 2. ...

a. Acute Area. The acute area is directly in the driver's line of vision in the center of the driver's critical area. It is 8 1/2" x 11", the size of a standard piece of paper, held horizontally on the windshield. In this area no cracks are allowed. No more than two stars, nicks, chips, bulls-eyes or half-moons in excess of 1/2 inch will be allowed.

b. Critical Area. The critical area is the area other than the acute area which is cleaned by the normal sweep of the windshield wiper blades on the driver's side only. In this area, any star larger than 2 inches in diameter; two or more stars larger than 1 1/2 inches in diameter or one or more cracks which extend more than 8 inches in length will not be allowed.

c. Non-Critical Area. This area consists of all other windshield area other than the acute or critical area. This area cannot have one or more cracks which extend more than 8 inches, one or more cracks which extend from top to bottom, one or more cracks which extend from right to left

or one or more cracks which extend all the way across the windshield.

3. ...

S. Windows and Glass Sunscreening and Glass Coating

1. Windshields are allowed to have sunscreen extend down from the topmost portion of the windshield no more than 5 inches. The sunscreen shall be transparent and not red or amber in color. The windshield limitation for a vehicle that has a sunscreen certificate is 6 inches from the topmost portion of the windshield.

2. Vehicles being presented for inspection that do not have a valid window tint medical exemption affidavit or a security exemption form issued by the department shall be inspected as follows.

2.a. - 5. ...

a. No vehicle wraps can be placed on any part of the vehicles glass.

6. Exceptions to the sunscreen rule:

a. sunscreen regulations do not apply to windows behind the driver of trucks, buses, trailers, motor homes, SUV's, multi-purpose passenger vehicles and all windows of vehicles used for law enforcement purposes;

b. vehicles with valid window tint medical exemption affidavit or a security exemption form issued by the department.

7. Window Tint Medical Exemption Affidavit

a. A person with a medical condition which makes that individual sensitive to sun exposure may obtain a waiver form provided by the department. The waiver must be completed by a licensed physician and must be signed by a department officer. This waiver exempts the vehicle identified on the form from all restrictions except windshields as provided in R.S. 32:361.1.

b. The medical exemption affidavit shall:

i. be valid for a period of not more than 3 years, except for the following provisions;

ii. be valid only for vehicles registered in this state where the registered owner, spouse or immediate family member has an approved affidavit that shall be kept in the motor vehicle at all times;

iii. not be applied for, or issued to, persons convicted of crimes of violence as defined in R.S. 14:1(13) or criminal offenses involving controlled dangerous substances as defined in RS 40:961 et seq.

iv. be returned to applicant by an officer, if approved;

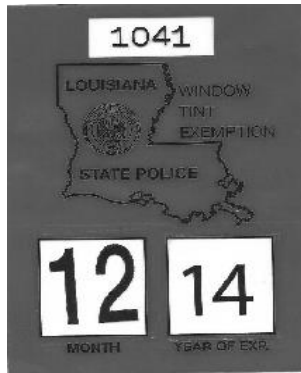
v. be non-transferable.

vi. be valid for the duration of ownership of a vehicle whose owner is age 60 years or older.

(a). The registered owner of the vehicle is 60 years and older at the time of application for a Medical Exemption Affidavit, or the individual becomes 60 years old while in possession of a valid Medical Exemption Affidavit, then the affidavit will be valid for the duration of that individual's ownership of the vehicle as provided in R.S. 32:361.2(A)(3)(c) unless deemed otherwise by the department.

c. A red medical exemption certificate will be issued to each vehicle that has been approved for a medical Exemption affidavit. The certificate will be placed above the motor vehicle inspection certificate by an officer of the

department. The certificate number will correspond to the certificate number on the medical exemption affidavit.



8. Window Tint Security Affidavit
- a. The following exclusive list of persons, or entities, shall be eligible for a security exemption from the provisions of R.S. 32:361.1:
- i. private investigators;
  - ii. bail enforcement agents;
  - iii. railroad police officers;
  - iv. Louisiana peace officers, POST-certified and sworn;
  - v. elected or appointed public officials.
- b. The department will review and make a final decision on any other individual, business, company, corporation or agency who submits a security exemption affidavit requesting added concealment of persons or property from public view.
- c. Window Tint Security Exemption Criteria
- i. Vehicle must be:
- (a). properly licensed, insured and registered, all in Louisiana; and
  - (b). owned or leased by an applicant.
- d. Security Exemption Affidavit
- i. An individual seeking exemption to window tint restrictions can obtain a security exemption affidavit form at the department headquarters, any motor vehicle field office or via the world wide web by accessing [www.lsp.org](http://www.lsp.org).
- ii. The security exemption affidavit must be complete, sworn and subscribed in the presence of a notary public. The security exemption affidavit must include:
- (a). applicant's name;
  - (b). address, city, state and zip code;
  - (c). vehicle description (year, make, model);
  - (d). vehicle identification number (VIN);
  - (e). vehicle license plate number;
  - (f). need, reason or explanation for exemption;
- and
- (g). signature of applicant.
- e. Security Exemption Process
- i. A completed Security Exemption Affidavit must be mailed to the Department Headquarters Office, P.O. Box 66614, Mail Slip 26, Baton Rouge, LA 70896-6614.

Security exemption affidavits will be reviewed and subsequently approved or disapproved by the department.

ii. Approved security exemption affidavits will be returned to applicant.

iii. An applicant whose Security Exemption Affidavit is disapproved will receive written notification of that decision by U.S. Mail. The correspondence will outline the reason(s) for denial. An applicant may write a letter of rebuttal germane to the reason(s) for denial. Letters of rebuttal will be taken under advisement. Once a final determination of eligibility has been made, an applicant has no further recourse. The Department of Public Safety and Corrections may approve, disapprove, cancel or revoke exemptions for window tint restrictions as deemed appropriate.

T. - V.3. ...

W. Doors. The vehicle's doors will be inspected as follows.

1. All doors must be present and operational with installed handles.

2. - 3. ...

4. Drivers side windows must properly function as designed. Laminated driver and passenger side windows cannot have cracks that obscure the drivers view.

X. - Z.5. ...

6. Tires shall not have visible bumps, bulges or knots indicating partial failure or ply separation of the tire structure.

7. - 11. ...

12. Vehicles equipped with oversized wheels must be able to make a turn of not more than a 45 degree angle without rubbing on the frame.

AA. Steering Mechanism

1. - 2. ...

a. With the front wheels in a straight-ahead position, check steering for free play. The engine must be running to check the free play in the power steering. More than 2 inches of free play for power-assisted steering and more than 3 inches of free play for manual steering will not be permitted. This shall be conducted during the road test.

AA.3. - BB.2. ...

3. The vehicle must have at least 4 inches of ground clearance measured from the frame or the lowest part of the vehicle, with the vehicle on a level surface.

CC. Seats and Seat Belts

1. - 4. ...

5. Passenger cars, vans or trucks with a gross weight of 10,000 pounds or less, and manufactured after January 1, 1981, must have working seatbelts as originally equipped.

DD. - DD.7. ...

EE. The windshield, rear glass and all windows must be present with no obstructions and in working order as originally equipped except as provided in Paragraphs S.6, S.7, or S.8 of this Section.

FF. Side Marker Lights and Reflectors. In addition to other equipment required in this Chapter, the following vehicles shall be equipped as herein stated under the conditions stated in R.S. 32:301.

GG. Buses, trucks, motor homes, and motor vehicles with mounted truck camper, 80 or more inches in width shall meet equipment requirements as follows:

1. on the front: two clearance lamps, one at each side, and all such vehicles manufactured or assembled after December 31, 1972 shall have three identification lamps meeting the specification of Subsection F of this Section;

2. on the rear: two clearance lamps, one at each side, and all such vehicles assembled or manufactured after December 31, 1972 shall have three identification lamps meeting the specifications of Subsection F of this Section;

3. on each side: two side marker lamps and two reflectors one of each at or near the rear and at or near the front.

HH. Trailers and semi-trailers 80 inches or more in width, except boat trailers, shall meet equipment requirements as follows:

1. on the front: two clearance lamps, one at each side;

2. on the rear: two clearance lamps, one at each side, and all such vehicles manufactured or assembled after December 31, 1972, three identification lamps meeting the specifications of Subsection F of this Section;

3. on each side: two side marker lamps and two reflectors one of each at or near the front and at or near the rear.

II. Truck tractors shall meet equipment requirements as follows:

1. on the front: two cab clearance lamps, one at each side, and on vehicles manufactured or assembled after December 31, 1972, three identification lamps meeting the specifications of Subsection F of this Section;

2. on each side: two amber side marker lamps and two amber reflectors, one of each at or near the front and at or near the rear.

JJ. Trailers, semi-trailers and pole trailers 30 feet or more in length shall have one amber side marker lamp and one amber reflector, centrally located with respect to the length of the trailer, on each side. Pole trailers shall also have on each side, at the rearmost support for the load, one combination marker lamp showing amber to the front and red to the rear and side, mounted to indicate maximum width of the pole trailer.

KK. Boat trailers 80 inches or more in width shall meet equipment requirements as follows:

1. on each side: two side marker lamps and two reflectors, one of each at or near the front and at or near the rear, and at or near the midpoint, one clearance lamp performing the function of both a front and rear clearance lamp;

2. on the rear of boat trailers manufactured or assembled after December 31, 1972, shall be three identification lamps meeting the specifications of Subsection F of this Section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1304-1310.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Safety Enforcement Section, LR 25:2428 (December 1999), amended LR 28:345 (February 2002), amended by the Department of Public Safety and Corrections, Office of State Police, LR 36:1789 (August 2010), LR 38:2553 (October 2012), LR 42:435 (March 2016).

#### **§815. Miscellaneous Inspection Procedures**

A. Trailers (must comply with requirements of LAC 55:III.811 where applicable)

1. ...

2. Trailers shall be inspected for fenders, lights and brakes, and tires where applicable.

3. Trailers shall be inspected at the hitch connection and the inspector must verify that the ball and hitch are of the same dimension.

4. Trailers must have working emergency brake-away device.

5. Exemptions, Single axle two-wheel trailers and all boat trailers are exempt from the MVI requirements.

B. Antique Cars. Motor vehicles which are 25 years old or older and which are used primarily for exhibition in shows, parades, tours and other special uses and not for general transportation, and which are registered and licensed as antique as provided in R.S. 32:707(L) shall be exempt from the inspection requirements of this Chapter.

C. - C.2. ...

3. Handlebars shall not extend past the operator's shoulder height when the operator is sitting astride the seat and the operator's hands are on the handlebar grips.

4. Handlebars shall be properly aligned.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1304-1310.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Safety Enforcement Section, LR 25:2433 (December 1999), amended by the Department of Public Safety and Corrections, Office of State Police, LR 42:438 (March 2016).

#### **Subchapter C. Vehicle Emission Inspection and Maintenance Program**

##### **§817. General Information**

A. - C.1. ...

2. Repealed.

D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1304-1310.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Safety Enforcement Section, LR 25:2433 (December 1999), amended by the Department of Public Safety and Corrections, Office of State Police, LR 42:438 (March 2016).

#### **Subchapter D. Inspection Procedures for School Buses**

##### **§821. General Information**

A. These standards are adopted from the minimum standards for school buses in Louisiana as promulgated by authority of *Louisiana Revised Statute* 17:164 which reads: "The Louisiana State Board of Education is authorized, directed and empowered to establish and adopt regulations relating to the construction, design, equipment and operation of school buses used in transportation of students to and from school. The statute further states that: "...any school bus body, chassis or equipment that meets the latest revised minimum standards for school buses adopted and recommended by the National Conference [now Congress] on school Transportation...shall be deemed in compliance with any such regulations adopted by the Louisiana state board of education....". The National Congress on School Transportation publishes specifications for school buses, along with inspection procedures, in its publication *Specifications and Procedures*, which is available at [nctonline.org](http://nctonline.org). This document is reviewed and revised every five years.

B. Definitions of School Bus Types

*Type A*—school bus is a conversion or bus constructed utilizing a cutaway front-section vehicle with a left side driver's door. This definition includes two classifications:

- a. type A-1, with a gross vehicle weight rating (GVWR) of 14,500 pounds or less; and
- b. type A-2, with a GVWR greater than 14,500 and less than or equal to 21,500 pounds.

*Type B*—school bus is constructed utilizing a stripped chassis. The entrance door is behind the front wheels. This definition includes two classifications:

- a. type B-1, with a GVWR of 10,000 pounds or less; and
- b. type B-2, with a GVWR greater than 10,000 pounds.

*Type C*—school bus is constructed utilizing a chassis with a hood and front fender assembly. The entrance door is behind the front wheels; also known as a conventional school bus. This type also includes cutaway truck chassis or truck chassis with cab with or without a left side door and a GVWR greater than 21,500 pounds.

*Type D*—school bus is constructed utilizing a stripped chassis. The entrance door is ahead of the front wheels; also known as rear or front engine transit style school buses.

C. Color

1. Any passenger-carrying vehicle, regardless of its class, with a capacity of more than seven passengers and used exclusively in the transportation of teachers and pupils to and from schools or their institution of learning under contract or other arrangement made by or with the constituted and authorized school personnel shall be considered a school bus. The school bus must be painted national school bus glossy yellow (R.S. 17:161). [The color known as "national school bus yellow" (NSBY) is specified and described in the School Bus Manufacturers Technical Council publication SBMTC-008, National School Bus Yellow Color Standard.] The uppermost top section of the roof may be painted white to reduce heat inside of the bus and the body exterior trim may be painted glossy black.

2. The front and rear bumpers shall be black.
3. Wheels may be gray, yellow or black.
4. Every school bus sold or transferred to any use other than school activities shall be painted by the new owner a color other than national school bus chrome yellow, all lettering of school bus identification, and all semaphore arms and alternate flashing signal lights shall be removed therefrom (R.S. 17:162; R.S. 32:378).

D. All school buses presented for inspection must adhere to all safety requirements, where applicable, and must also conform to applicable Federal Motor Vehicle Safety standard (FMVSSs) and Federal Motor Carrier Safety regulations. The bus must comply with the following items and devices in addition to all other requirements.

E. Before being approved to inspect school buses, official motor vehicle inspection stations must meet the following qualifications.

1. The station must have an area large enough to accommodate a bus. The inspection area will be subject to approval by the department.
2. Mechanic inspectors must possess a valid driver's license. The mechanic inspector must also meet the minimum experience qualifications.

3. The mechanic inspector must pass the general and commercial MVI classes and must be approved to inspect school buses by the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1304-1310.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Safety Enforcement Section, LR 25:2434 (December 1999), amended by the Department of Public Safety and Corrections, Office of State Police, LR 38:2557 (October 2012), LR 42:438 (March 2016).

**§823. General Inspection Procedures (must comply with requirements of LAC 55:III.811 where applicable)**

A. - B.2.i. ...

C. Fluid Leaks. Vehicle fluids include gasoline or diesel, transmission fluid, engine oil, bearing grease, water or radiator coolant, windshield washer fluid or water and power steering fluid. No fluid leaks of any kind are allowed.

D. Lighting Systems. The lighting system will be checked as follows.

1. Interior Lamps (including stepwell lamp on types A, B, C and D school buses). Interior lamps shall be used to provide adequate illumination of the interior compartment. The stepwell lamp shall be illuminated by an entrance door-operated switch, to illuminate only when headlamps and clearance lamps are on and the entrance door is open.

2. - 5.b.i. ...

ii. One must be mounted at or near the rear of the bus and must be red in color. Buses 30 feet or longer in length require one additional amber reflex reflector on each side of the bus.

6. School Bus Alternately Flashing Lamps. A school bus shall have alternately flashing lamps mounted at the same horizontal level which identify the vehicle as a school bus. They also inform other vehicle operators that the bus is stopped or about to stop to take on or discharge students.

a. - d. ...

E. Left Hand Stop Arm Lamps

1. All buses manufactured after July 7, 1977, must be equipped with two flashing red lights on each of the left hand stop arms with the light visible from both sides of the stop arms, and these lights shall be visible at 500 feet in normal sunlight [R.S. 32:318(B)(4)].

a. ...

2. Two stop signal arms shall be installed on types B, C and D school buses; one stop signal arm shall be installed on type A school buses. When two stop signal arms are installed on a school bus, the rearmost stop arm shall not contain any lettering, symbols or markings on the forward side.

3. The entire surface of both sides of the stop signal arm shall be of reflectorized material with type III reflector material that meets the minimum specific intensity requirements of 49 CFR 517.131. When two stop signal arms are installed on a bus, the forward side of the rearmost stop signal arm shall not be reflective.

F. - H. ...

I. Backing Lamp and Audible Backing Alarm

1. Backing Lamp. The bus body shall be equipped with two white rear backup lamps that are at least four inches in diameter, or, if a shape other than round, a minimum of 12 square inches of illuminated area and shall meet FMVSS No. 108. If backup lamps are placed on the

same horizontal line as the brake lamps and turn signal lamps, they shall be to the inside.

2. Backing Alarm. Every new school bus ordered or purchased after August 15, 1993, and every used bus not in service as a school bus on that date, but put into service as a school bus thereafter, shall be equipped with an automatic back-up audible alarm which sounds on backing and which is capable of emitting sound audible under normal conditions from a distance of not less than 100 feet. The alarm shall also be capable of operating automatically when the vehicle is in neutral or a forward gear but rolls backward (R.S. 32:378).

J. Mirrors. School buses are required to have an interior mirror, exterior mirrors and one or more exterior cross-view mirrors.

1. Interior Mirror. Type A bus shall have a minimum of 6" x 16" mirror and type B, C and D buses shall have a minimum of 6" x 3" mirror.

2. Exterior mirror must have one or more left and one or more right hand mirrors with a minimum of 50 square inches of reflecting glass.

3. Exterior Cross View Mirror. Buses manufactured after July 1, 1979, shall have a mirror system which will provide a clear, unobstructed view of the area in front of the bus; the area immediately adjacent to the left and right front wheels and the entrance door.

K. Interior Doors

1. Service Door (front passenger pick up door). It may be controlled manually or by power. It must be controlled by the bus driver only.

a. The vertical closing edges of the service door must be equipped with a flexible material to protect passenger's fingers.

2. Emergency Exit Door

a. The passage way to the emergency door must not be restricted in any way to less than 12 inches in width.

b. There must not be steps to the emergency door when the door is in the closed position.

c. It must be equipped with a proper gasket around the door and the glass which furnishes a proper seal.

d. It must be equipped with an audible warning buzzer which notifies the driver's compartment that the door is open.

e. The emergency door mechanism shall function from the inside and outside.

f. The words "Emergency Exit" or "Emergency Door" shall be marked directly above the door on both the inside and outside in letters at least 2 inches high.

g. There must be no manual locking of any doors while the bus is in operation. No pad locks can be used on any door while the bus is in operation.

L. Bumpers and Crossing Control Arm

1. The words "School Bus" must be on the front and rear of the vehicle in plain, black letters at least 8 inches in height.

2. The stop arms shall be painted red with the word "Stop" in white letters.

3. Every school bus shall be equipped with a crossing control device actuated by the driver and operated in conjunction with the stop arm. The crossing control device shall pivot out from the right side of the front bumper to

prevent persons from walking directly in front of the bus [R.S. 17:164.1(A)(1)].

M. School bus identification (signs):

1. the words "School Bus" must be on the front and rear of the vehicle in plain, black letters at least 8 inches in height.

2. bus identification number on the sides, rear and front;

3. district, company name or owner of the bus displayed at the beltline;

4. the location of the battery(ies) identified by the word battery or batteries on the battery compartment door in two-inch lettering;

5. "handicap" symbol, identifying the bus as equipped for or transporting student with disabilities; however, the symbol shall not be placed on the glass of the rear emergency exit;

6. the stop arms shall be painted red with the word Stop in white letters, or the stop arms may be covered by a manufactured decal with the same color combination.

N. Tires

1. At a minimum, the steering axle must have 4/32 inch tread.

2. No re-grooved or re-capped tires are allowed on the steering axle.

3. At a minimum, the rear axle must have 2/32 inch tread.

O. Mud Flaps. All school buses manufactured on or after July 1, 1979, shall be equipped with mud flaps on the rear of the vehicle.

P. Front and Rear Suspension and Steering. The front of the bus must be lifted and the following items checked:

1. wheel bearings for excessive looseness and play;

2. king pins and bushings for excessive looseness;

3. drive shaft and universal joints for excessive wear; and

4. ball joints for excessive wear.

Q. Windshield, Windows, and Glass

1. The left front driver's window must readily open and close.

2. No cracks, discoloration or scratches to the front, rear, right or left of the driver which would interfere with his vision are allowed.

3. No window may be broken or have any exposed sharp edges. No window may have any cracked or separated glass allowing one piece of glass to move independently of another.

4. The windshield, not including a 2 inch border at the top and a 1 inch border at each side of the windshield or each panel thereof, may not:

a. have any crack not over 1/4 inch wide, if not intersected by any other crack; or

b. have any damaged area which can be covered by a disc 3/4 of an inch in diameter, if not closer than 3 inches to any other such damaged area (Federal Motor Carrier Safety regulation, 393.60).

5. Side windows must open and close properly.

6. Windows must have exposed edge of glass banded.

7. Driver side windows and service doors shall not have window tint.

8. Each emergency exit window must be equipped with an alarm buzzer that alerts the bus driver to an unlatched or open window.

**R. Stepwell and Floor Covering**

1. The stepwell and the aisle on buses manufactured after July 1, 1966, must be covered with a rubber, non-skid, wear resistant, ribbed material.

2. All openings in the floor board, such as the gear shift lever and auxiliary brakes, shall be sealed.

3. The stepwell must not be rusted in any area and must have sufficient strength to support passengers.

4. The aisle must not be restricted in any way to less than 12 inches in width.

5. There must be no looseness in the stanchions, guard rails or grab rails.

S. Emergency Equipment. Any piece of emergency equipment may be mounted in an enclosed compartment, provided the compartment is labeled in not less than one-inch letters, identifying each piece of equipment contained therein. Emergency equipment shall consist of the following items.

1. First Aid Kit. The bus shall have a removable, moisture-proof and dust-proof first aid kit, securely mounted in an accessible place within the driver's compartment. The first aid kit must contain the supplies necessary to administer first aid in an emergency situation.

2. Fire Extinguisher. The bus will be equipped with at least one UL-approved pressurized ABC type of dry chemical fire extinguisher. It must have a gauge and at least a 5 pound capacity. It must be mounted in the manufacturer's bracket of an automotive type. It must be located in the driver's compartment in a clearly marked location or in full view of, and readily accessible to, the driver. Fire extinguishers must have a valid and up-to-date certification.

3. Warning Devices. Each school bus shall contain at least three retroreflective triangle road warning devices that meet the requirements of FMVSS No. 125, warning devices. They shall be mounted in an accessible place.

4. Body Fluid Cleanup Kit (Optional). Each school bus may have a removable and moisture-proof body fluid clean-up kit accessible to the driver. The kit shall be mounted and identified as a "body fluid clean-up kit."

T. - Y.2. ....

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1304-1310.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Safety Enforcement Section, LR 25:2434 (December 1999), amended by the Department of Public Safety and Corrections, Office of State Police, LR 42:439 (March 2016).

**Subchapter E. Federal Motor Carrier Safety Regulations**  
**§825. General Information**

A. Certain types of vehicles are subject to federal regulations in connection with Louisiana's Motor Vehicle Inspection Program. A *commercial vehicle* is defined as any self-propelled or towed vehicle used on public highways in commerce to transport passengers or property when:

1. the vehicle has a gross vehicle weight rating or gross combination weight rating as follows:

a. interstate commerce—the vehicle travels from this state to another state and has a weight rating of 10,001 pounds or more;

b. intrastate commerce—the vehicle travels only in Louisiana and has a weight rating of 26,001 pounds or more;

2. the vehicle is designed to transport more than 15 passengers, including the driver;

3. the vehicle is used in the transportation of hazardous material in a quantity requiring placarding under regulations issued by the secretary under the Hazardous Material Transportation Act.

B. The federal regulations mandate that this motor carrier safety inspection will be conducted on an annual basis, with the commercial vehicle inspection report completed with each yearly inspection.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1304-1310.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Safety Enforcement Section, LR 25:2437 (December 1999), amended by the Department of Public Safety and Corrections, Office of State Police, LR 42:441 (March 2016).

**§827. 49 Code of Federal Regulations (CFR) §390.15**  
**Motor Carrier Safety Regulations**

A. The definition of a *commercial motor vehicle* is any self-propelled or towed motor vehicle used on a highway in interstate commerce to transport passengers or property when the vehicle:

1. has a gross vehicle weight rating or gross combination weight rating, or gross vehicle weight, of 4,536kg (10,001 lbs) or more, whichever is greater; or

2. is designed or used to transport more than 8 passengers (including the driver) for compensation; or

3. is designed or used to transport more than 15 passengers, including the driver, and is not used to transport passengers for compensation; or

4. is used in transporting material found by the secretary of transportation to be hazardous under 49 U.S.C. 5103 and transported in a quantity requiring placarding under regulations prescribed by the secretary under 49 CFR, subtitle B, chapter I, subchapter C.

**B. 49 CFR 396.17, Periodic Inspection**

1. Every commercial motor vehicle shall be inspected as required by this Section. The inspection shall include, at a minimum, the parts and accessories set forth in LAC 55:III.829. The term *commercial motor vehicle* includes each vehicle in a combination vehicle. For example, for a tractor semitrailer, full trailer combination, the tractor, semi-trailer and the full trailer (including the converter dolly if so equipped) shall be inspected.

2. Except as provided in C.F.R. 396.23, a motor carrier shall inspect or cause to be inspected all motor vehicles subject to its control.

3. A motor carrier shall not use a commercial motor vehicle unless each component identified in LAC 55:III.829 has passed an inspection in accordance with the terms of this Section at least once during the preceding 12 months. The commercial inspection certificate conforms with C.F.R. 396.17-C-2, which waives the requirement that a copy of the commercial annual inspection form be carried in the vehicle.

4. It shall be the responsibility of the motor carrier to ensure that all parts and accessories not meeting the minimum standards set forth in LAC 55:III.829 are repaired promptly.



5. Failure to perform properly the annual inspection set forth in this Section shall cause the motor carrier to be subject to the penalty provisions provided by 49 U.S.C. 521(B).

C. 49 CFR 396.21 Periodic Inspection/Record-Keeping Requirements

1. The qualified inspector performing the inspection shall complete the record of annual commercial inspection form (DPSSE 1019) in its entirety.

2. The original or a copy of the inspection report shall also be retained by the motor carrier under whose control the vehicle operates for 30 consecutive days or more, for a period of 14 months. The inspection report shall be retained where the vehicle is either housed or maintained. The original or a copy of the inspection report shall be available for inspection upon demand of an authorized federal, state or local official.

a. A copy shall be kept at the MVI station conducting the inspection for 3 years.

3. A record of annual commercial inspection form will be completed for each unit inspected, i.e., tractor, trailer, converter dolly, etc. When a record of annual commercial inspection form is completed, the regular log report need not be filled out.

4. A rejected vehicle is entitled to one free re-inspection if returned to the same inspection station within thirty days.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1304-1310.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Safety Enforcement Section, LR 25:2437 (December 1999), amended by the Department of Public Safety and Corrections, Office of State Police, LR 38:2558 (October 2012), LR 42:441 (March 2016).

#### §829. Minimum Periodic Inspection Standards

A. - J.1.b. ...

c. Loose brake components including air chambers, spiders, and cam shaft support brackets.

d. Audible air leak at brake chamber (ex. ruptured diaphragm, loose chamber clamp, etc.).

e. Readjustment Limits

i. The maximum pushrod stroke must not be greater than the values given in the tables below and at 393.47(e). Any brake stroke exceeding the readjustment limit will be rejected. Stroke must be measured with engine off and reservoir pressure of 80 to 90 psi with brakes fully applied. Do not attempt to adjust automatic slack adjusters.

(a) The Maximum Stroke at which Brakes Should be Readjusted

Clamp-Type Brake Chamber Data			
Type	Outside Diameter	Brake Readjustment Limit Standard Stroke Chamber	Brake Readjustment Limit Long Stroke Chamber
6	4 1/2 inch	1 1/4 inch	
9	5 1/4 inch	1 3/8 inch	
12	5 11/16 inch	1 3/8 inch	1 3/4 inch
16	6 3/8 inch	1 3/4	2 inch
20	6 25/32 inch	1 3/4 inch	2 inch 2 1/2 inch (For 3" rated stroke)
24	7 7/32 inch	1 3/4 inch	2 2 1/2 inch (For 3" rated stroke)

Clamp-Type Brake Chamber Data			
Type	Outside Diameter	Brake Readjustment Limit Standard Stroke Chamber	Brake Readjustment Limit Long Stroke Chamber
30	8 3/32 inch	2 inch	2 1/2 inch
36	9 inch		

Bendix DD-3 Brake Chambers		
Type	Outside Diameter	Maximum Stroke At Which Brakes Should Be Readjusted
30	8 1/2 in.	2 1/4 inch

Bolt Type Brake Chamber Data		
Type	Outside Diameter	Maximum Stroke At Which Brakes Should Be Readjusted
A	6 15/16 inch	1 3/8 inch
B	9 3/16 inch	1 3/4 inch
C	8 1/16 inch	1 3/4 inch
D	5 1/4 inch	1 1/4 inch
E	6 3/16 inch	1 3/8 inch
F	11 inch	2 1/4 inch
G	9 7/8 inch	2 inch

Rotochamber Data		
Type	Outside Diameter	Maximum Stroke At Which Brakes Should Be Readjusted
9	4 9/32 inch	1 1/2 inch
12	4 13/16 inch	1 1/2 inch
16	5 13/32 inch	2 inch
20	5 15/16 inch	2 inch
24	6 13/32 inch	2 inch
30	7 1/16 inch	2 1/4 inch
36	7 5/8 inch	2 3/4 inch
50	8 7/8 inch	3 inch

(b). For actuator types not listed in these tables, the pushrod stroke must not be greater than 80 percent of the rated stroke marked on the actuator by the actuator or manufacturer, or greater than the readjustment limit marked on the actuator by the actuator manufacturer.

f. Brake Lining or Pads

i. lining or pad is not firmly attached to the shoe;  
 ii. saturated with oil, grease or brake fluid;  
 iii. non-steering axles. Lining with a thickness less than 1/4 inch at the shoe center for air drum brakes, 1/16 inch or less at the shoe center for hydraulic and electric drum brakes, and less than 1/8 inch for air disc brakes;  
 iv. steering axle. Lining with a thickness less than 1/4 inch at the shoe center from drum brakes, less than 1/8 inch for air disc brakes and 1/16 inch or less for hydraulic disc and electric brakes.

g. Missing brakes on axle required to have brakes.

h. Mismatch across any power unit steering axle of:

i. air chamber size;  
 ii. slack adjuster length;  
 iii. wedge brake data—movement of the scribe mark on the lining shall not exceed 1/16 inch.

J.2. - M.3. ...

N. Lighting Devices. All lighting devices and reflectors required by 49 CFR part 393 shall be operable.

O. - S.1.h. ...

i. re-grooved tire except motor vehicles used solely in urban or suburban service [see exception in 49 CFR 393.75(e)];

S.1.j. - X. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1304-1310.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Safety Enforcement Section, LR 25:2438 (December 1999), amended by the Department of Public Safety and Corrections, Office of State Police, LR 38:2558 (October 2012), LR 42:442 (March 2016).

Jill P. Boudreaux  
Undersecretary

1603#017

**RULE**

**Department of Transportation and Development  
Professional Engineering and Land Surveying Board**

Examination/Experience Requirements for Professional  
Engineer Licensure and Seal Design Samples  
(LAC 46:LXI.1509 and 2701)

Under the authority of the Louisiana professional engineering and land surveying licensure law, R.S. 37:681 et seq., and in accordance with the Louisiana Administrative Procedure Act, R.S. 49:950 et seq., the Louisiana Professional Engineering and Land Surveying Board has amended its rules contained in LAC 46:LXI.1509 and 2701.

**Title 46**

**PROFESSIONAL AND OCCUPATIONAL  
STANDARDS**

**Part LXI. Professional Engineers and Land Surveyors**

**Chapter 15. Experience**

**§1509. Experience at Time of Application**

A. ...

B. For applicants for professional engineer licensure under §903.A.1 of these rules, the “verifiable record of four years or more of progressive experience obtained subsequent to meeting the educational and applicable experience qualifications to be an engineer intern” must be gained by the time of application for licensure. However, for any such applicant who has already been duly certified as an engineer intern by the board and has received approval to take the examination in the principles and practice of engineering under §1305.B of these rules, such experience need not be gained by the time of application for licensure part I, rather such experience need only be gained by the time of application for licensure part II.

C. For applicants for professional land surveyor licensure under §909.A.1 of these rules, the “verifiable record of four years or more of combined office and field experience in land surveying including two years or more of progressive experience on land surveying projects under the supervision of a professional land surveyor” must be gained by the time of application for licensure.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:688.

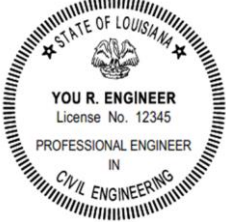
HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Professional Engineering and Surveying Board, LR 27:1031 (July 2001), amended LR 30:1716

(August 2004), LR 37:2413 (August 2011), LR 38:2565 (October 2012), LR 40:1390 (July 2014), LR 42:443 (March 2016).

**Chapter 27. Use of Seals**

**§2701. Seal and Signature**

A. - A.2.f. ...



3. - 5.b. ...

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AUTHORITY NOTE: Promulgated in accordance with R.S. 37:696.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 8:192 (April 1982), amended LR 12:692 (October 1986), LR 16:774 (September 1990), LR 17:273 (March 1991), LR 19:58 (January 1993), LR 22:287 (April 1996), LR 23:869 (July 1997), amended by the Louisiana Legislature, House Concurrent Resolution Number 2 of the 1998 First Extraordinary Session, LR 24:1207 (June 1998), repromulgated by the Department of Transportation and Development, Professional Engineering and Land Surveying Board, LR 25:1525 (August 1999), amended LR 27:1039 (July

2001), LR 30:1723 (August 2004), LR 33:2789 (December 2007), LR 34:2415 (November 2008), LR 35:1910 (September 2009), LR 38:1418 (June 2012), LR 39:1481 (June 2013), LR 42:443 (March 2016).

Donna D. Sentell  
Executive Director

1603#033

## **RULE**

### **Department of Wildlife and Fisheries Wildlife and Fisheries Commission**

#### **Advertising or Sponsorship Signs on Department Assets (LAC 76:1.339)**

The Department of Wildlife and Fisheries and the Wildlife and Fisheries Commission, in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and through the authority granted in R.S. 56:13, have advertise their intent to investigate the feasibility of and place advertising or sponsorship signs on one or more assets under departmental control for the purpose of generating revenue to defray costs of services associated with communication, educational, and extension activities or for the purpose of recognizing sponsorship partners.

#### **Title 76**

### **WILDLIFE AND FISHERIES**

#### **Part I. Wildlife and Fisheries Commission and Agencies Thereunder**

#### **Chapter 3. Special Powers and Duties**

#### **Subchapter J. Placing of Advertising or Sponsorship Signs on Department Assets**

#### **§339. Advertising or Sponsorship Signs on Department Assets**

##### **A. Purpose**

1. The purpose of this Rule is to establish procedures and guidelines within the department for allowing certain limited types of advertising and sponsorship signs on high-visibility assets owned or controlled by the department to raise revenue to defray costs of departmental services associated with communication, educational, and extension activities or to recognize sponsorship partners.

2. The display of advertising or sponsorship signs on departmental assets shall not constitute an endorsement by the department of any of the products, services or messages of the advertiser or sponsor.

3. Advertisement or sponsorship signs may be placed on immovable property, improvements on immovable property, vehicles, vessels, and other assets of the department, including but not limited to websites, pamphlets, brochures, and other outreach, communications, and educational materials.

##### **B. Solicitation, Selection and Contracting**

1. The department may issue solicitations to secure contracts to determine the market potential for advertisements or sponsorships or to place advertisements or sponsorship signs on department assets.

2. The solicitation responses will be reviewed by a committee appointed by the secretary, and the most suitable proposals, as determined by the committee, may be selected.

3. The committee has the discretion to make reasonable recommendations to the secretary concerning the types of advertising or sponsorship signs that may be displayed utilizing the criteria established herein.

4. The secretary shall have final discretion regarding which recommendations and solicitations are selected. Selections shall be made for those advertisements or sponsorships that do not impact or infringe upon the image or reputation of the department.

5. The department may limit the number and type of assets available for advertising or sponsorship displays.

6. The department may limit the authorization to advertise or place sponsorship signs among the department's divisions, sections, programs and initiatives.

7. The department may limit the terms and conditions of the contract with an advertiser or sponsor.

#### **C. Guidelines for Content for Advertising and Sponsorship Signs**

1. Only commercial advertising or sponsorships will be accepted. The advertisement or sponsorship content shall only include content that promotes or informs a commercial transaction.

2. No content promoting illegal activity or obscene, vulgar or offensive conduct shall be allowed.

3. No content that demeans or disparages individuals or groups shall be allowed.

4. No political or religious advertising or sponsorships shall be allowed.

5. No advertising or sponsorship signs of adult oriented products shall be allowed. Advertising or sponsorship signs of firearms and other means authorized in the lawful taking of game in Louisiana, however, may be allowed.

6. The advertising or sponsorships should not be so controversial that it can promote vandalism of advertising or sponsorship materials and associated departmental property.

#### **D. Guidelines for Placement of Advertising or Sponsorship Signs on Assets**

1. Advertising or sponsorship signs shall not be placed in a manner that could interfere or confuse as to the identification of department's ownership or control of the asset.

2. On vehicles, vessels, and other assets of the department traditionally utilized in the transport of personnel or equipment, advertising or sponsorships signs may be placed on the inside or the outside of equipment. However, the signage shall not be erected in such a manner that it impedes the asset's safe utilization and operation.

a. Advertising or sponsorship signs shall not be allowed on vehicles, vessels, and other assets traditionally utilized in the transport of personnel and equipment that are under the control or operation of the enforcement division.

3. For advertising or sponsorship signs which require a power source, such as electronics or LED lighting, the advertiser or sponsor will be required by the department to submit and maintain detailed plans and provisions. The use of the powered advertising or sponsorship devices shall not have any adverse effect on the safety and functionality of the asset. If the safety and functionality of the asset is compromised after installation, the signage shall be removed.

AUTHORITY NOTE: Promulgated in accordance R.S. 56:13  
HISTORICAL NOTE: Promulgated by the Department of  
Wildlife and Fisheries, Wildlife and Fisheries Commission, LR  
42:444 (March 2016).

Edwin "Pat" Manuel  
Chairman

1603#048

**RULE**

**Workforce Commission  
Office of Workforce Development**

**Certification of High Unemployment Areas  
(LAC 40:XXI.101)**

Pursuant to the authority granted by R.S. 36:310 and 8  
CFR part 204.6(i) and in accordance with the provisions of  
the Administrative Procedure Act, R.S. 49:950 et seq., the  
Louisiana Workforce Commission has adopted LAC  
40:XXI.101. The purpose of the adoption of this Rule is to  
allow the Workforce Commission to charge a fee to cover  
expenses related to certifying high unemployment areas  
under the Employment Based Fifth Category Visa Program  
(EB-5). This Rule has been adopted to continue the

provisions of the Emergency Rule adopted on September 9,  
2015.

**Title 40**

**LABOR AND EMPLOYMENT**

**Part XXI. High Unemployment Areas**

**Chapter 1. Certification of High Unemployment  
Areas**

**§101. Application Fee**

A. An application fee in the amount of \$250 shall be  
required for each request for certification of a high  
unemployment area under the Employment Based Fifth  
Category Visa Program (EB-5).

B. All fees shall be paid in advance by check, money  
order, or other authorized method of payment and made  
payable to: Louisiana Workforce Commission. Cash cannot  
be accepted.

AUTHORITY NOTE: Promulgated in accordance with 8 CFR  
part 204.6(i) and R.S. 36:310.

HISTORICAL NOTE: Promulgated by the Workforce  
Commission, Office of Workforce Development, LR 42:445  
(March 2016).

Ava Dejoie  
Executive Director

1603#009

# Notices of Intent

## NOTICE OF INTENT

### Department of Children and Family Services Division of Programs Child Welfare Section

State Central Registry (LAC 67:V.1103)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(A), the Department of Children and Family Services (DCFS) proposes to amend LAC 67:V, Subpart 3, Child Protective Services, Chapter 11, Section 1103, State Central Registry.

Section 1103 is being amended in accordance with 42 USC 15601 et seq., and 28 CFR 115.6. Amendments to this Section will provide for the disclosure of state central registry information as required by the Federal Prison Rape Elimination Act (PREA) on justified/valid sexual abuse findings to the Office of Juvenile Justice, upon request, when a prospective or current employee of a juvenile facility is listed as a perpetrator; include disclosure of justified/valid findings on the state central registry for prospective volunteers and service providers; and update current department and program titles.

#### Title 67

#### SOCIAL SERVICES

#### Part V. Child Welfare

#### Subpart 3. Child Protective Services

#### Chapter 11. Administration and Authority

#### §1103. State Central Registry

A. The Department of Children and Family Services establishes and will maintain a state central registry (SCR) of all reported cases of child abuse and neglect. The purpose of the SCR is to compile information of past reports of child abuse or neglect thus enabling child protective services staff to conduct a more complete evaluation of current reports of suspected abuse or neglect of children which may include a pattern of incidents. All records of reports of child abuse or neglect are confidential in accordance with R.S. 46:56.

B. The *Louisiana Children's Code* article 616, requires the maintenance of a SCR of all reported cases. This includes records of investigations with justified/valid findings; unjustified/invalid findings in accordance with *Children's Code* article 615 E(1); and, inconclusive findings for evaluating court appointed special advocates (CASA) volunteers in accordance with *Children's Code* article 616 F. As part of the investigation, the Department of Children and Family Services child protective services staff shall provide to caretakers written notice of the SCR and the rules governing maintenance and expungement of SCR records.

1. - 6. ...

7. Any person whose name is included on the SCR with a justified/valid determination may file a rule to show cause against the Department of Children and Family Services in the court exercising juvenile jurisdiction in the parish in which the investigation was conducted to show why the information on file should not be expunged. The

Department of Children and Family Services will expunge the petitioner's name and other identifying information upon receipt of a court order to do so. Any expungement order issued by a court shall not take effect as to non-identifying statistical information on file until the three-year record retention period required by federal law for audit purposes has expired, counting from the month and year of the determination. During the three-year record retention period, such records bearing the non-identifying statistical information shall be sealed and accessible only to the financial auditors.

C. The Department of Children and Family Services is authorized to release information maintained on the SCR in limited circumstances. This information will be released according to the following provisions.

1. The Department of Children and Family Services will disclose information maintained on the SCR regarding cases of child abuse or neglect to other states' child welfare agencies upon formal inquiry by that agency, when the inquiry is made pursuant to an ongoing child protective services investigation, child protection alternative response, foster care home study, adoptive home study, or family services case following a child protective services investigation in the requesting state, in accordance with R.S. 46:56(F)(4)(a). This information may also be released to private licensed child placing agencies located in Louisiana and in other states upon formal inquiry and verification of licensure. Information released to such agencies is confidential and shall not be released to sources outside the agency.

2. The Department of Children and Family Services will conduct a search of the SCR for foster, adoptive and other home studies for the purpose of placement of children who are in the custody of the department or receiving services from the department.

3. The Department of Children and Family Services will disclose limited information on a SCR records check when requested by an employer or prospective employer of a person who will be exercising supervisory authority over that employer's minor children or other dependent person as part of that person's direct employment and supervision as a caregiver by the parent or person with the dependent. The written request for the information will be a signed and notarized request form that must be signed by the employee and employer. The form will be provided upon request from the employer, prospective employer, employee, or prospective employee. The information that will be disclosed will include whether or not a record of a justified/valid finding of abuse or neglect was found which identifies the employee or prospective employee as a perpetrator. The information will be disclosed to the employer or prospective employer.

4. The Department of Children and Family Services will disclose information in records of reports of child abuse or neglect when requested in writing from persons cited in R.S. 46:56(F)(10)(a). The information to be disclosed is limited to whether or not the department has a report that is

currently open and under investigation or has been determined to be justified/valid, the status of the investigation, the determination made by the department and any action taken by the department. Action taken by the department will include the following: case under investigation, case closed, referred for services, continued services post investigation, and child taken into custody.

5. The Department of Children and Family Services will disclose information regarding justified/valid reports in foster homes, early learning centers, restrictive care facilities and registered family child day care homes to the agency or sponsoring agency responsible for the licensure or registration of the facility.

6. The Department of Children and Family Services will disclose information regarding justified/valid reports when requested pursuant to R.S. 46:56(F)(1) and *Children's Code* article 616 C with a written request from a judge of a court exercising juvenile jurisdiction for a CASA applicant, with the applicant's written consent.

7. The Department of Children and Family Services will provide SCR records checks for independent adoptions in accordance with the *Louisiana Children's Code*.

8. The Department of Children and Family Services will disclose information regarding justified/valid reports when requested pursuant to R.S. 46:51.2(A) for potential or current employees of the Department of Children and Family Services when that individual's name is listed on the SCR as a perpetrator. If the individual requests a risk assessment evaluation, this information will also be disclosed to the risk evaluation panel. Information disclosed shall be limited to those names recorded on the SCR subsequent to January 1, 2010.

9. The Department of Children and Family services will disclose information regarding justified/valid findings when requested as part of the application process of a prospective DCFS volunteer or service provider. Information disclosed shall be limited to those names recorded on the SCR subsequent to January 1, 2010. The disclosures for prospective volunteers and service providers are limited to the following individuals:

a. an individual who will be providing services for a child currently in the department's custody through a mentoring or tutoring program established by a memorandum of understanding with the department;

b. an individual who has personally entered into an agreement with the department for the provision of transportation services for a child currently in its custody;

c. an individual who has agreed to serve as a monitor of a safety plan developed by the department for the protection of a child's health and safety while remaining in his home.

10. The Department of Children and Family Services will disclose information on justified/valid sexual abuse findings in accordance with 42 USC 15601 et seq., and 28 CFR 115.6 for prospective and current juvenile facility employees of the Office of Juvenile Justice upon receipt of a written request.

11. The Department of Children and Family Services will disclose information on justified/valid findings in accordance with R.S. 46:1414.1. This information will be released according to the following provisions.

a. The Department of Children and Family Services will disclose information on justified/valid findings involving any owner, operator, current or prospective employee or volunteer of a specialized provider or juvenile detention facility licensed by the Department of Children and Family Services or early learning center licensed by the Louisiana Department of Education when requested in writing by law enforcement to prosecute under R.S. 46:1441.1.

b. The Department of Children and Family Services will disclose information on justified/valid findings involving any owner, operator, volunteer, current or prospective employee of a specialized provider or juvenile detention facility licensed by the Department of Children and Family Services when requested in writing by the department's Child Welfare Licensing Section when they have reasonable suspicion or are provided facts that indicate reasonable suspicion the individual's name is currently maintained on the SCR as a perpetrator. Reasonable suspicion is defined as licensing having or acquiring information containing specific and articulable facts that indicate that an owner, operator, current or potential employee or volunteer has been investigated and determined to be the perpetrator of abuse or neglect against a minor in an investigation with a justified/valid finding currently recorded on the SCR. Upon receipt of the SCR clearance information that the individual is currently listed as a perpetrator, the appropriate child care or residential licensing and regulatory personnel shall immediately report the false information on the disclosure form and the SCR listing to the local district attorney.

c. If the owner, operator, current or prospective employee or volunteer of a specialized provider or juvenile detention facility licensed by the Department of Children and Family Services or an early learning center licensed by the Louisiana Department of Education discloses, or it becomes known, that their name is listed on the SCR as a perpetrator and requests a risk assessment evaluation, the Department of Children and Family Services will disclose the information on the SCR to the risk evaluation panel.

AUTHORITY NOTE: Promulgated in accordance with the Children's Code, title VI, articles 615 and 616 and title XII, article 1173, R.S. 14:403(H), R.S. 46:51.2(A), R.S. 46:56, R.S. 46:1414.1, 42 USC 15601 et seq., and 28 CFR 115.6.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Services, LR 18:79 (January 1992), amended LR 20:198 (February 1994), LR 21:583 (June 1995), LR 23:590 (May 1997), LR 26:790 (April 2000), LR 31:1609 (July 2005), LR 36:838 (April 2010), amended by the Department of Children and Family Services, Division of Programs, Child Welfare Section, LR 42:

#### **Family Impact Statement**

1. What effect will this Rule have on the stability of the family? The proposed Rule may have a positive effect on the stability of the family as it provides for the disclosure of

information on individuals with justified/valid findings of abuse or neglect who are applicants to be an employee in a juvenile facility, a DCFS employee or volunteer, and supports the protection of children from individuals with a history of abuse or neglect.

2. What effect will this have on the authority and rights of persons regarding the education and supervision of their children? The proposed Rule will not affect the authority and rights of persons regarding the education and supervision of their children.

3. What effect will this have on the functioning of the family? The Rule may have a positive effect on the functioning of the family by assuring a process for the disclosure of information on prospective volunteers and service providers for DCFS.

4. What effect will this have on family earnings and family budget? The proposed Rule should not have an effect on family earnings and family budget. Individuals determined to pose a risk to children may be affected by loss of employment involving contact with children until they find other employment.

5. What effect will this have on the behavior and personal responsibility of children? The Rule should not affect the behavior or personal responsibility of children.

6. Is the family or local government able to perform the function as contained in this proposed Rule? No, Louisiana law prescribes this as a department function and only DCFS has access to the SCR.

#### **Poverty Impact Statement**

The proposed rulemaking is not anticipated to have an impact on poverty as defined by R.S. 49:973.

#### **Small Business Analysis**

The proposed Rule is not anticipated to have an adverse impact on small businesses as defined in the Regulatory Flexibility Act.

#### **Provider Impact Statement**

The proposed Rule is not anticipated to have an impact on providers of services funded by the state as described in HCR 170 of the 2014 Regular Legislative Session.

#### **Public Comments**

All interested persons may submit written comments through April 27, 2016, to Rhenda Hodnett, Deputy Secretary of Programs, Department of Children and Family Services, P.O. Box 3776, Baton Rouge, LA 70821.

#### **Public Hearing**

A public hearing on the proposed Rule will be held on April 27, 2016, at the Department of Children and Family Services, Iberville Building, 627 North Fourth Street, Seminar Room 1-127, Baton Rouge, LA, beginning at 9 a.m. All interested persons will be afforded an opportunity to submit data, views, or arguments, orally or in writing, at said hearing. Individuals with disabilities who require special services should contact the DCFS Appeals Unit or Division of Administrative Law at least seven working days in advance of the hearing. For assistance, call (225) 342-4120 (voice and TDD).

Marketa Garner Walters  
Secretary

## **FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES**

### **RULE TITLE: State Central Registry**

#### **I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

In accordance with 42 USC 15601, et seq and 28 CFR 115.6, this rule proposes to amend LAC 67:V, Subpart 3 Child Protective Services, Chapter 11, Section 1103 State Central Registry. Amendments to this section will provide for the disclosure of State Central Registry information as required by the Federal Prison Rape Elimination Act (PREA). Under PREA, the Office of Juvenile Justice may request information from the State Central Registry on justified/valid sexual abuse findings when a prospective or current employee of a juvenile facility is listed as a perpetrator as well as for prospective volunteers and service providers. Also, the proposed rule updates current department and program titles.

The only cost associated with this proposed rule is the cost of publishing rulemaking, which is estimated to be approximately \$1,917 (Federal) in FY 15-16. This is a one-time cost that is routinely included in the department's operating budget.

#### **II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

Implementation of this proposed rule will have no effect on revenue collections of state or local revenue collections.

#### **III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

Implementation of this proposed rule will have no cost or economic benefit to directly affected persons or nongovernmental groups.

#### **IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

The proposed rule is not expected to have an effect on competition or employment unless a person is determined to have a valid/justified sexual abuse finding on the State Central Registry. To the extent a person has a finding, they are prevented from working in occupations that provide direct care to children.

Rhenda Hodnett  
Deputy Secretary  
1603#042

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office

## **NOTICE OF INTENT**

### **Department of Children and Family Services Economic Stability Section**

#### **Pre- and Post-Release Family Strengthening Program (LAC 67:III.5577)**

In accordance with the provisions of the Administrative Procedure Act R.S. 49:953(A), the Department of Children and Family Services (DCFS) proposes to adopt LAC 67:III, Subpart 15, Temporary Assistance for Needy Families (TANF) Initiatives, Chapter 55, TANF Initiatives, Section 5577, Pre- and Post-Release Family Strengthening Program.

Pursuant to Louisiana's Temporary Assistance for Needy Families (TANF) block grant, adoption of Section 5577 is necessary to govern the collection of eligible rehabilitation expenditures for incarcerated and released male offenders

who are fathers of minor children who are members of a needy family that may be counted as maintenance of effort (MOE) for the TANF grant.

This action was made effective by an Emergency Rule dated and effective February 1, 2016.

#### **Title 67**

### **SOCIAL SERVICES**

#### **Part III. Economic Stability**

##### **Subpart 15. Temporary Assistance for Needy Families (TANF) Initiatives**

##### **Chapter 55. TANF Initiatives**

##### **§5577. Pre- and Post-Release Family Strengthening Program**

A. The department shall enter into a Memorandum of Understanding with the Louisiana Department of Public Safety and Corrections to collect information on rehabilitation expenditures for the purpose of claiming eligible expenditures that may count as maintenance of effort (MOE) effective Temporary Assistance for Needy Families (TANF) state plan FY 2015 for the TANF grant. The eligible rehabilitation expenditures that may be claimed as MOE are from the following programs.

1. Regional Reentry Program. This program provides the following services to incarcerated male inmates to assist them in becoming self-sustaining individuals upon release: life skills training; two forms of identification; discharge planning which includes residence, employment, and referral/connection to community resources; high school equivalency classes consisting of literacy, adult basic education, and pre-HiSET classes; and vocational training opportunities. The program attempts to alter the offender's negative attitudes and behavior through treatment and training, reconnect families separated by incarceration, and prepare the family to receive the offender upon release.

2. Day Reporting Program. This program offers the following services to released offenders with technical violations who face revocation and re-incarceration: non-medical substance abuse treatment, life skills, employment skills, job placement assistance, cognitive-behavioral interventions, and intensive case management. Additional services may also include adult basic education and HiSET preparation, parenting and family relations skills, anger management, pro-social family and community support, relapse prevention activities, and pro-social cognitive decision-making as needed. The program seeks to identify critical thinking and decision making errors that can be addressed, substance abuse and mental health needs, as well as assist with family dynamics to ensure the offender has the resources and tools necessary to remain in the community and avoid a return to prison.

3. Local Jail Transition Specialists. This program uses mobile transition specialists who provide the following services to incarcerated state offenders that are housed at local jails: parenting and anger management programming, behavior modification, and case management. The program seeks to reduce the offender's risk of recidivism, increase pro-social decision making, and ensure offenders are routed to the regional reentry programs and/or day reporting centers as appropriate.

B. These services meet TANF goal 2, to end dependence of needy parents on government benefits, by promoting job preparation, work, and marriage, and TANF goal 4, to

encourage the formation and maintenance of two-parent families.

C. Eligibility for services attributable to TANF/MOE funds is limited to incarcerated and released male offenders who are fathers of minor children who are members of a needy family. A family meets financial eligibility if any member receives a Family Independence Temporary Assistance Program (FITAP) grant, Kinship Care Subsidy Program (KCSP) grant, Supplemental Nutrition Assistance Program (SNAP) benefit, Title XIX (Medicaid) Medical Assistance Program benefit, Louisiana Children's Health Insurance Program (LaCHIP) benefit, or supplemental security income (SSI) benefit.

D. Services are considered non-assistance by the department.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; P.L. 104-193, and R.S. 36:474.

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Economic Stability Section, LR 42:

#### **Family Impact Statement**

The proposed Rule is not anticipated to have an impact on family formation, stability, and autonomy as described in R.S. 49:972.

#### **Poverty Impact Statement**

The proposed Rule is not anticipated to have an impact on poverty as described in R.S. 49:973.

#### **Small Business Analysis**

The proposed Rule is not anticipated to have an adverse impact on small businesses as defined in the Regulatory Flexibility Act.

#### **Provider Impact Statement**

The proposed Rule is not anticipated to have an impact on providers of services funded by the state as described in HCR 170 of the 2014 Regular Legislative Session.

#### **Public Comments**

All interested persons may submit written comments through April 26, 2016 to Sammy Guillory, Deputy Assistant Secretary of Programs, Department of Children and Family Services, P.O. Box 94065, Baton Rouge, LA 70804.

#### **Public Hearing**

A public hearing on the proposed Rule will be held on April 26, 2016, at the Department of Children and Family Services, Iberville Building, 627 North Fourth Street, Seminar Room 1-127, Baton Rouge, LA beginning at 10 a.m. All interested persons will be afforded an opportunity to submit data, views, or arguments, orally or in writing, at said hearing. Individuals with disabilities who require special services should contact the Bureau of Appeals at least seven working days in advance of the hearing. For assistance, call (225) 342-4120 (voice and TDD).

Marketa Garner Walters  
Secretary

### **FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES**

#### **RULE TITLE: Pre- and Post-Release Family Strengthening Program**

#### **I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

The Department of Children and Family Services (DCFS) proposes to continue the provisions of the February 1, 2016



emergency rule, which adopts Louisiana Administrative Code (LAC), Title 67, Part III, Subpart 15 Temporary Assistance for Needy Families (TANF) Initiatives, Chapter 55 TANF Initiatives, Section 5577 Pre- and Post-Release Family Strengthening Program. The proposed rule adopts Section 5577 that governs the data collection of eligible rehabilitation expenditures for incarcerated and released male offenders who are fathers of minor children that are members of a needy family. These expenditures may be counted as eligible expenditures toward the Maintenance of Effort (MOE) for the federal TANF grant.

The proposed rule helps maintain the overall TANF expenditures of the department by capturing eligible state expenditures on male offenders that can be used toward the MOE. The only cost associated with this proposed rule is the cost of publishing rulemaking. It is anticipated that \$1,491 (Federal) will be expended in FY 15-16 for the state's administrative expense for promulgation of this proposed rule and the final rule.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

Implementation of this proposed rule will have no effect on revenue collections of State or local governmental units.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

Implementation of this proposed rule will have no cost or economic benefit to directly affected persons or non-governmental groups.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

This proposed rule will not have an impact on competition and employment for low-income families.

Sammy Guillory  
Deputy Assistant Secretary  
1603#043

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Department of Children and Family Services  
Division of Programs**

**Risk Assessment Evaluation (LAC 67:I.Chapter 3)**

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(A), the Department of Children and Family Services (DCFS) proposes to amend LAC 67:I, Subpart 1, General Administration, Chapter 3, Risk Assessment Evaluation.

Chapter 3 is being amended in accordance with R.S. 46:51.2, R.S. 46:1414.1, R.S. 15:1110.2 and R.S. 17:407.41. The amendments include adding an owner, operator, current or prospective employee, or volunteer of an early learning center licensed by the Louisiana Department of Education as individuals entitled to request risk assessment evaluation. In addition, the Chapter is being amended to add procedures and conditions of employment for current and prospective department employees/volunteers, and to update risk evaluation panel membership consistent with current job titles and responsibilities.

**Title 67  
SOCIAL SERVICES**

**Part I. Office of the Secretary  
Subpart 1. General Administration**

**Chapter 3. Risk Assessment Evaluation**

**§301. Introduction**

A. - B.2. ...

C. Any prospective employee or current employee whose duties include the investigation of child abuse or neglect, supervisory or disciplinary authority over children, direct care of a child, or performance of licensing surveys and who discloses or it becomes known that their name was recorded subsequent to January 1, 2010 on the state central registry with a justified (valid) finding of abuse or neglect, may request a risk assessment evaluation in accordance with the following.

1. In accordance with LAC 67:I.305, the prospective employee will have 10 calendar days to make his request for a risk assessment evaluation from the date of receipt of written notification that his name appears on the state central registry and of the risk assessment evaluation process. The application process shall be terminated for a prospective employee and he may not be considered for a position whose duties include the investigation of child abuse or neglect, supervisory or disciplinary authority over children, direct care of a child, or performance of licensing surveys in the future, unless it is determined that he does not pose a risk to children.

2. In accordance with LAC 67:I.305, a current employee will have 10 calendar days to make a request for a risk assessment evaluation from the date of receipt of written notification that his name appears on the state central registry and of the risk assessment evaluation process. When the employee fails to make such a request, and:

a. he is currently in a position whose duties include the investigation of child abuse or neglect, supervisory or disciplinary authority over children, direct care of a child, performance of licensing surveys, termination proceedings will begin immediately after the 10 calendar days have elapsed; or

b. if he is not currently in a position whose duties include the investigation of child abuse or neglect, supervisory or disciplinary authority over children, direct care of a child, performance of licensing surveys but is applying for such a position, he will remain in his current position and shall not be considered for the new position. The provisions in this Chapter pertaining to a prospective employee are applicable to this employee.

3. If a prospective employee requests a risk assessment evaluation within the required time frame and there is a determination that the individual does not pose a risk to children, the prospective employee may reapply for employment and be considered for a position whose duties include the investigation of child abuse or neglect, supervisory or disciplinary authority over children, direct care of a child, or performance of licensing surveys.

4. If a current employee requests a risk assessment evaluation within the required time frame, as a condition of continued employment in a position whose duties include the investigation of child abuse or neglect, supervisory or disciplinary authority over children, direct care of a child, or performance of licensing surveys, the current employee shall be directly supervised by another paid employee of the department, who has not disclosed nor has it become known that their name appears with a justified (valid) finding on the state central registry prior to January 1, 2010; or, found not to pose a risk by the risk evaluation panel. Under no circumstances may the employee with the justified finding be left alone and unsupervised with the children pending the disposition of the risk evaluation panel that they do not pose a risk to children.

5. If the risk evaluation panel finds the prospective employee or current employee does pose a risk to children and the prospective employee or current employee chooses not to appeal the finding, the prospective employee may not be considered for a position whose duties include the investigation of child abuse or neglect, supervisory or disciplinary authority over children, direct care of a child, or performance of licensing surveys, and termination proceedings shall begin on the current employee, unless his current position does not include those duties.

6. If the risk evaluation panel finds the individual does pose a risk to children and the prospective employee appeals the finding within the required timeframe, the prospective employee may not be considered for a position whose duties include the investigation of child abuse or neglect, supervisory or disciplinary authority over children, direct care of a child, or performance of licensing surveys. If the current employee appeals the finding within the required timeframe he shall continue to have direct supervision in a position whose duties include the investigation of child abuse or neglect, supervisory or disciplinary authority over children, direct care of a child, or performance of licensing surveys at all times by another paid employee of the department who has not disclosed nor has it become known that they have a justified (valid) finding on the state central registry prior to January 1, 2010; or found not to pose a risk by the risk evaluation panel, until there is a final ruling rendered by the DCFS appeals unit or the appropriate district court that the current employee does not pose a risk to children. Supervision may end effective with such a final ruling from the DCFS appeals unit and/or the appropriate district court. If the DCFS appeals unit and/or the appropriate district court upholds the risk evaluation panel finding that the individual does pose a risk to children, a prospective employee shall not be considered for a position whose duties include the investigation of child abuse or neglect, supervisory or disciplinary authority over children, direct care of a child, or performance of licensing surveys and termination proceedings for a current employee in a position with those duties will begin immediately upon the receipt of the notice of this final ruling.

D. No person whose duties include supervisory or disciplinary authority over children or direct care of a child may volunteer or become a service provider as provided in LAC 67:V.1103 for DCFS until:

1. the department has conducted a search of the state central registry of justified (valid) abuse or neglect and has determined that the individual's name is not recorded therein subsequent to January 1, 2010; or

2. if an individual's name is recorded on the state central registry subsequent to January 1, 2010, a risk evaluation panel has, previous to his application to volunteer or become a service provider as provided in LAC 67:V.1103, determined in writing that the individual does not pose a risk to children.

E. In accordance with R.S. 46:1414.1, 15:1110.2 and 17:407.41 any owner, operator, current or prospective employee, or volunteer of an early learning center or juvenile detention facility licensed by the department or an early learning center licensed by the Louisiana Department of Education who discloses that he is currently recorded on the state central registry for a justified (valid) finding of abuse or neglect shall be entitled to a risk evaluation provided by the department to determine whether the individual poses a risk to children.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:51.2, R.S. 46:1414.1, R.S. 15:1110.2 and R.S. 17:407.41.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, LR 36:851 (April 2010), amended by the Department of Children and Family Services, Division of Programs, LR 39:3248 (December 2013), LR 42:

### **§303. Risk Evaluation Panel and/or Risk Evaluation Coordinator**

A. A risk evaluation panel (panel) is established to conduct risk assessment evaluations for an individual as listed in LAC 67:I.301.B, C and E whose name appears on the state central registry to determine if that individual poses a risk to children.

B.1. Members of the panel shall be designated pursuant to Paragraph B.2 and consist of:

- a. the risk evaluation panel coordinator;
- b. a child welfare manager responsible for in home services;
- c. a child welfare manager responsible for out of home services;
- d. a regional child welfare administrator;
- e. a child welfare manager responsible for continuous quality improvement, except for panel reviews relating to DCFS prospective or current employees;
- f. a program child welfare manager for licensing for panel reviews relating to owners, operators, current or prospective employees, or volunteers of specialized providers and juvenile detention facilities; and
- g. any others designated as deemed necessary to convene an appropriate panel.

2. The panel members listed in Paragraph B.1 shall be designated by the DCFS secretary, or his designee.

3. The risk evaluation panel coordinator shall be a non-voting member of the panel.

C. The duties of the panel shall include:

1. conducting an assessment of an individual listed in LAC 67:I.301B, C and E whose name appears on the state central registry and has requested a risk evaluation to determine whether that individual poses a risk to children;
2. providing written notification of the decision to the individual; and

3. retaining all records of decisions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:51.2, R.S. 46:1414.1, R.S. 15:1110.2 and R.S. 17:407.41.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, LR 36:851 (April 2010), amended by the Department of Children and Family Services, Division of Programs, LR 39:3248 (December 2013), LR 42:

#### **§305. Risk Assessment Evaluation Process**

A. The risk evaluation panel will determine if the individual listed in LAC 67:301.B, C and E poses a risk to children based on the information available in the DCFS case record, licensing record if applicable, and any supplemental information provided by the employee.

B. ...

C. The prospective or current employee of DCFS or any owner, operator, current or prospective employee, or current or prospective volunteer of a specialized provider or juvenile detention facility licensed by the department or an early learning center licensed by the Louisiana Department of Education is responsible for providing the following documentation to the risk evaluation panel to be used in conjunction with the information in the case record in making a risk determination:

1. - 3. ...

D. The prospective or current employee of DCFS or any owner, operator, current or prospective employee, or current or prospective volunteer of a specialized provider or juvenile detention facility licensed by the department or an early learning center licensed by the Louisiana Department of Education must submit the information within 10 calendar days of the request for a risk evaluation by mailing to:

Louisiana Department of Children and Family Services  
Attention: Risk Evaluation Panel  
627 North Fourth St., Third Floor  
Baton Rouge, LA 70802

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:51.2, R.S. 46:1414.1, R.S. 15:1110.2 and R.S. 17:407.41.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, LR 36:852 (April 2010), amended by the Department of Children and Family Services, Division of Programs, LR 39:3248 (December 2013), LR 42:

#### **§307. Risk Determination Criteria**

A. ...

B. The panel shall determine if an individual poses a risk to children based on the information available in the DCFS case record, licensing record if applicable, and any supplemental information provided by the prospective or current employee whose duties include the investigation of child abuse or neglect, supervisory or disciplinary authority over children, direct care of a child, or performance of licensing surveys, or a prospective/current volunteer.

B.1. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:51.2, R.S. 46:1414.1, R.S. 15:1110.2 and R.S. 17:407.41.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, LR 36:852 (April 2010), amended by the Department of Children and Family Services, Division of Programs, LR 39:3248 (December 2013), LR 42:

#### **§309. Appeals Process**

A. - B. ...

C. The individual may file a request for an administrative appeal within 30 days of the mailing of the notice of the determination with the DCFS Appeals Unit. Administrative appeals for prospective employees or current

employees of DCFS are conducted by the DCFS Appeals Unit. If the request for an administrative appeal is made by a current or prospective owner, employee or volunteer of a specialized provider or juvenile detention facility licensed by the department or an early learning center licensed by the Louisiana Department of Education, within 30 days of the mailing of the notice of the determination, that request shall be sent by the appeals unit to the division of administrative law.

D. All decisions rendered by the administrative law judge within the DCFS appeals unit or the division of administrative law are final and such decisions shall exhaust the individual's administrative appeal rights.

E. Within 30 calendar days after the mailing date listed on the notice of the final decision by the DCFS appeals unit or the division of administrative law, or if a rehearing is requested, within 30 calendar days after the date of the decision thereon, the individual may obtain judicial review by filing a petition for review of the decision in the Nineteenth Judicial District Court or the district court of the domicile of the individual.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:51.2, R.S. 46:1414.1, R.S. 15:1110.2 and R.S. 17:407.41.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, LR 36:852 (April 2010), amended by the Department of Children and Family Services, Division of Programs, LR 39:3248 (December 2013), LR 42:

#### **§311. Correction or Expungement of Central Registry Entries**

A. Notwithstanding any other provisions, a panel determination shall not be used to prohibit an individual from being considered for employment when the justified (valid) finding that served as the basis for the risk assessment evaluation is:

1. corrected either pursuant to *Children's Code* article 616 or by DCFS; or

2. expunged either pursuant to LAC 67:V.1103 or LAC 67:V.1105.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:51.2, R.S. 46:1414.1, R.S. 15:1110.2 and R.S. 17:407.41.

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Division of Programs, LR 42:

##### **Family Impact Statement**

1. What effect will this Rule have on the stability of the family? The proposed Rule may have a positive effect on the stability of the family as it supports the protection of children from individuals with a history of abuse or neglect who also pose a risk to children.

2. What effect will this have on the authority and rights of persons regarding the education and supervision of their children? The proposed Rule will not affect the authority and rights of persons regarding the education and supervision of their children.

3. What effect will this have on the functioning of the family? The Rule may have a positive effect on the functioning of the family by assuring a process for DCFS child clients and children in out of home care to be protected from individuals with a history of abuse or neglect who pose a risk to children.

4. What effect will this have on family earnings and family budget? The proposed Rule should not have an effect on family earnings and family budget. Individuals determined to pose a risk to children may be affected by loss

of employment involving contact with children until they find other employment.

5. What effect will this have on the behavior and personal responsibility of children? The Rule should not affect the behavior or personal responsibility of children.

6. Is the family or local government able to perform the function as contained in this proposed Rule? No, Louisiana law prescribes this as a department function.

#### **Poverty Impact Statement**

The proposed rulemaking is not anticipated to have an impact on poverty as defined by R.S. 49:973.

#### **Small Business Analysis**

The proposed Rule is not anticipated to have an adverse impact on small businesses as defined in the Regulatory Flexibility Act.

#### **Provider Impact Statement**

The proposed Rule is not anticipated to have an impact on providers of services funded by the state as described in HCR 170 of the 2014 Regular Legislative Session.

#### **Public Comments**

All interested persons may submit written comments through April 26, 2016, to Rhenda Hodnett, Deputy Secretary of Programs, Department of Children and Family Services, P.O. Box 3776, Baton Rouge, LA 70821.

#### **Public Hearing**

A public hearing on the proposed Rule will be held on April 26, 2016, at the Department of Children and Family Services, Iberville Building, 627 North Fourth Street, Seminar Room 1-127, Baton Rouge, LA beginning at 9 a.m. All interested persons will be afforded an opportunity to submit data, views, or arguments, orally or in writing, at said hearing. Individuals with disabilities who require special services should contact the DCF's Appeals Unit or Division of Administrative Law at least seven working days in advance of the hearing. For assistance, call (225) 342-4120 (voice and TDD).

Marketa Garner Walters  
Secretary

### **FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES**

#### **RULE TITLE: Risk Assessment Evaluation**

#### **I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

In accordance with R.S. 46:51.2, R.S. 46:1414.1, R.S. 15:1110.2 and R.S. 17:407.41, this rule proposes to amend LAC 67:I, Subpart 1 General Administration, Chapter 3 Risk Assessment Evaluation.

The amendments include adding an owner, operator, current or prospective employee and volunteer of an early learning center licensed by the Louisiana Department of Education as individuals entitled to request risk assessment evaluation. In addition, the chapter is amended to add procedures and conditions of employment for current and prospective department employees or volunteers. Finally, the chapter is amended to update the membership of the risk evaluation panel so that membership is consistent with current job titles and responsibilities.

The only cost associated with this proposed rule is the cost of publishing rulemaking. It is anticipated that \$2,343 (Federal) will be expended in FY15-16 for the state's administrative expenses for promulgation of this proposed rule and the final

rule. This is a one-time cost that is routinely included in the department's budget.

#### **II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

Implementation of this proposed rule will have no effect on revenue collections of state or local governmental units.

#### **III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

Implementation of this proposed rule will have no cost or economic benefit to directly affected persons or nongovernmental groups.

#### **IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

The rule is not expected to have an effect on competition or employment unless a person is determined to pose a risk to children. To the extent a person has a finding, they are prevented from working in occupations that provide direct care to children.

Rhenda Hodnett  
Deputy Secretary  
1603#041

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office

### **NOTICE OF INTENT**

#### **Office of the Governor Real Estate Appraisers Board**

License Requirements (LAC 46:LXVII.Chapter 103)

Under the authority of the Louisiana Real Estate Appraisers Law, R.S. 37:3397 et seq., and in accordance with the provisions of the Louisiana Administrative Procedure Act, R.S. 49:950 et seq., the Louisiana Real Estate Appraisers Board has initiated procedures to amend Chapter 103 (License Requirements).

#### **Title 46**

### **PROFESSIONAL AND OCCUPATIONAL STANDARDS**

#### **Part LXVII. Real Estate**

#### **Subpart 2. Appraisers**

#### **Chapter 103. License Requirements**

#### **§10308. Appraiser Trainees**

A. - A.1. ...

2. The certified residential or certified general real property appraiser shall be responsible for the conduct of the licensed appraiser trainees and shall supervise their work product, in accordance with the guidelines and requirements of the "2016-2017 Uniform Standards of Professional Appraisal Practice" or its successor.

2.a. - 5. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3395.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Real Estate Appraisers Board, LR 31:1333 (June 2005), amended LR 37:333 (January 2011), LR 41:368 (February 2015), LR 42:

#### **§10309. Application for Experience Credit**

A. ...

B. Experience credit shall be approved by the board in accordance with *The Real Property Appraiser Qualification Criteria*, May 2015, prescribed by the Appraiser Qualifications Board of the Appraisal Foundation (AQB). Calculation of experience hours shall be based solely on actual hours of experience.

C. Only those real property appraisals consistent with the “Uniform Standards of Professional Appraisal Practice” or its successor will be accepted by the board for experience credit.

D. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3395.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Appraisers Board of Certification, LR 25:1426 (August 1999), amended by the Office of the Governor, Real Estate Appraisers Board, LR 31:1333 (June 2005), LR 37:333 (January 2011), LR 39:310 (February 2013), LR 41:368 (February 2015), LR 42:

#### **§10313. General Experience Requirements**

A. ...

1. When an appraisal report is signed by more than one person, credit for said assignment shall be claimed according to the number of actual hours worked by each person. For the purpose of granting credit, a person signing in the capacity of a review or supervisory appraiser is not considered as a co-signer on the report, provided that his or her role as such is clearly indicated in the report.

A.2. - B.4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3395.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Appraisers Board of Certification, LR 25:1427 (August 1999), amended by the Office of the Governor, Real Estate Appraisers Board of Certification, LR 29:126 (February 2003), amended by the Office of the Governor, Real Estate Appraisers Board, LR 31:1334 (June 2005), LR 37:333 (January 2011), LR 41:369 (February 2015), LR 42:

#### **§10317. Co-Signed Reports, Reviews, Articles and Textbooks**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3395.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Appraisers Board of Certification, LR 25:1429 (August 1999), repealed by the Office of the Governor, Real Estate Appraisers Board, LR 42:

#### **§10319. Temporary Practice License**

A. An applicant shall be granted a temporary practice license to perform the appraisal assignment described in his or her application, if:

1. the applicant has filed a properly completed application;

2. the applicant has submitted the required fee with the application;

3. the applicant has satisfied the board as to his qualifications and eligibility for temporary licensing privileges; and

4. the time projected by the applicant for completion of the assignment is reasonable, given the scope and complexity of the assignment.

B. Application for a temporary practice license shall be made on forms prescribed by the board.

C. Licensing privileges granted under the provisions of this Subsection shall expire upon completion of the appraisal assignment described in the application for temporary licensing.

D. The board shall extend the applicant's temporary practice license expiration date, if the applicant shows, in

writing, that additional time is needed to complete the assignment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3395.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Real Estate Appraisers Board, LR 42:

#### **Family Impact Statement**

In accordance with R.S. 49:953(A)(1)(a)(viii) and 972, the following Family Impact Statement is submitted with this Notice of Intent for publication in the March 20, 2016 *Louisiana Register*. The proposed Rule has no known impact on family, formation, stability, or autonomy.

#### **Poverty Impact Statement**

The proposed Rule has no known impact on poverty as described in R.S. 49:973.

#### **Provider Impact Statement**

The proposed Rule has no known impact on providers of services for individuals with developmental disabilities.

#### **Public Comments**

Interested parties may submit written comments on the proposed regulations to Ryan Shaw, Louisiana Real Estate Appraisers Board, P.O. Box 14785, Baton Rouge, LA 70898-4785 or 9071 Interline Avenue, Baton Rouge, LA 70809 or [rshaw@lrec.state.la.us](mailto:rshaw@lrec.state.la.us), through April 10, 2016 at 4:30 p.m.

#### **Public Hearing**

If it becomes a necessary to convene a public hearing to receive comments, in accordance with the Administrative Procedures Act, a hearing will be held on April 26, 2016 at 9 a.m. at the office of the Louisiana Real Estate Appraisers Board, 9071 Interline Avenue, Baton Rouge, LA 70809.

Bruce Unangst  
Executive Director

### **FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: License Requirements**

#### **I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

There are no implementation costs (savings) to state or local governmental units associated with the proposed rule change. The proposed rule codifies existing practices and exiting law regarding real estate appraiser trainees with regard to: guidelines and requirements prescribed by the “Uniform Standards of Professional Appraisal Practice” or its successor, experience credit and requirements, clarifying rules for acquiring a temporary practice license, and co-signed reports, reviews, articles and textbooks.

#### **II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

The proposed rule change will have no effect on revenue collections of state or local governmental units.

#### **III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

There are no estimated costs associated with the proposed rule change. The proposed changes codify existing practices.

#### **IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

The proposed rule change will have no effect on competition and employment.

Bruce Unangst  
Executive Director  
1603#035

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office

## NOTICE OF INTENT

### Department of Health and Hospitals Board of Examiners of Psychologists

Continuing Education and Licenses  
(LAC 46:XXIII.Chapters 8 and 9)

Notice is hereby given in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Board of Examiners of Psychologists intends to amend LAC 46:XXIII.801, 803, 805, 807, 809, 811, 815, 903; repeal §808; adopt §901; and renumber current §§901, 902, and 903.

#### Title 46 PROFESSIONAL AND OCCUPATIONAL STANDARDS

##### Part LXIII. Psychologists

##### Subpart 1. General Provisions

##### Chapter 8. Continuing Education

##### §801. Preface

A. Pursuant to R.S. 37:2357(B), each licensed psychologist is required to complete continuing education hours, also referred to as Continuing Professional Development (CPD) within biennial reporting periods. Continuing education is an ongoing process consisting of learning activities that increase professional development. Continuing professional development activities:

1. - 3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2357.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners of Psychologists, LR 16:769 (September 1990), amended LR 19:46 (January 1993), LR 32:1228 (July 2006), LR 36:1007 (May 2010), LR 39:2754 (October 2013), LR 42:

##### §803. Requirements

A. For the reporting periods that begin July 2014 and July 2015, each psychologist is required to complete 30 hours or credits of continuing professional development within the biennial reporting period. The CPD credits must conform to the distribution requirements listed below in Subsection C. For the reporting periods that begin July 2016 and July 2017 and henceforth, 40 credits of continuing professional development will be required in the biennial reporting period and the hours must conform to the distribution listed below in Subsection C.

B. ...

C. Within each reporting period, licensees must earn credits in at least two of the categories listed under Subsection D of this Section.

D. Licensees can accumulate continuing professional development credits in the categories defined:

1. Professional

a. Peer Consultation—interacting with colleagues in a structured and organized format. Examples include case consultation groups, journal clubs, regional research groups, mentoring, and shadowing a colleague. One hour of peer consultation equals one credit.

i. If requested, documentation required to earn credit shall be a verification form providing evidence that it is a structured program of consultation with regularly

scheduled meetings and showing the nature of the consultation. Additionally, the person providing the consultation, or facilitating the case consultation group, must attest, by signature, to the description of the program, number of hours met and that the verification form has been completed.

b. Practice Outcome Monitoring—assessing patient/client outcomes via questionnaire(s) that is appropriate to the practice endeavor. One client equals one credit per reporting period.

i. If requested, documentation required to earn credit shall be a verification form and a de-identified copy of the patient/client questionnaire.

c. Professional Activities—serving on a national, regional, or state psychological association board or committee; or board member of regulatory body related to the field of psychology. Professional activities shall not include lobbying activities. One year equals 10 credits.

i. If requested, documentation required to earn credit shall be a verification form and documentation from the professional organization confirming the service.

d. Conferences/Conventions—attendance at a conference related to the field of psychology or a conference, which aids in the licensee's professional development. One conference day equals one credit.

i. If requested, documentation required to earn credit shall include a copy of registration materials. This credit is separate from traditional continuing education units that may be awarded at said conference.

2. Academic

a. Academic Courses—graduate-level course related to psychologist's discipline and practice taken for credit from a regionally accredited university or one pre-approved by the board. One three-hour course or equivalent equals 20 credits; or, one registered audit, documented by the university, equals five credits.

i. If requested, documentation required to earn credit shall include course transcript.

b. Instruction—preparation and teaching a semester long graduate or undergraduate course, related to psychology, in a regionally accredited institution; or continuing education workshop presentation. Credit can only be received the first time teaching or presenting the material. Credit for preparing and teaching a workshop shall be equal to two times the credit granted attendees; Credit for teaching a university course shall be 10 times the number of credit hours awarded the students.

i. If requested, documentation required to earn credit shall be the course syllabus or brochure.

c. Publications—author of an article for peer-reviewed publications or author, editor or co-editor of a book/book chapter related to the field of psychology. One article equals 10 credits; one book/book chapter equals 10 credits.

i. If requested, documentation required to earn credit shall include a copy of journal abstract or a copy of the publication.

3. Traditional Continuing Education

a. Approved Sponsored CE—workshops from a recognized approved sponsor under Section 805.A of this Chapter. One hour equals one credit.

i. If requested, documentation required to earn credit shall be the certificate or award of completion from sponsor.

b. Self-directed Learning—examples include reading, Internet, videos, and/or other unsponsored activities. All self-directed learning activities shall be limited to 10 credits. One hour equals one credit.

i. If requested, documentation required to earn credit shall include the completion of the continuing professional development verification form provided by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:2357.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners of Psychologists, LR 16:770 (September 1990), amended LR 19:46 (January 1993), LR 32:1228 (July 2006), LR 39:2754 (October 2013), LR 42:

**§805. Acceptable Sponsorship, Offerings and Activities**

A. The board will recognize the following as acceptable sponsors of the continuing education requirements:

1. accredited institutions of higher education;

2. hospitals which have approved Regional Medical Continuing Education Centers;

3. hospitals which have APA approved doctoral internship training programs;

4. national, regional, or state professional associations, or divisions of such associations, which specifically offer or approve graduate or post doctoral continuing education training;

5. American Psychological Association (APA) approved sponsors and activities offered by APA (including home study courses);

6. activities sponsored by the Board of Examiners of Psychologists; and

7. activities sponsored by the Louisiana Department of Health and Hospitals or its subordinate units and approved by the chief psychologist of the sponsoring state office.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2357.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners of Psychologists, LR 16:770 (September 1990), amended LR 19:46 (January 1993), LR 22:1131 (November 1996), LR 25:1098 (June 1999), LR 32:1228 (July 2006), LR 36:1007 (May 2010), LR 42:

**§807. Unacceptable Offerings and/or Activities**

A. The board will not recognize:

1. activities unrelated to the field of psychology even though such activities may be valuable for other professional purposes;

2. personal psychotherapy.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2357.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners of Psychologists, LR 16:770 (September 1990), amended LR 19:47 (January 1993), LR 25:1098 (June 1999), LR 42:

**§808. Calculation of Credits Earned**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2357.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners of Psychologists LR 32:1229 (July 2006), repealed LR 42:

**§809. Reporting Requirements**

A. Each psychologist shall complete, at the end of reporting periods, the continuing professional development report and file accordingly with the board.

B. ...

C. Supporting Documentation. Each licensee shall retain corroborative documentation, such as the CPD Verification Form, of his or her continuing professional development for six years. Although this documentation is not routinely required as part of the licensee's submission, the board may, at its discretion, request such documentation. Any misrepresentation of continuing professional development will be cause for disciplinary action by the board.

D. ...

E. The board may conduct an annual audit of Continuing Professional Development Reports. Psychologists shall be selected randomly and will be required to produce documentation for each item reported to the board. The number of psychologists selected for audit shall be determined by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2357.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners of Psychologists, LR 19:47 (January 1993), amended LR 32:1229 (July 2006), LR 39:2755 (October 2013), LR 42:

**§811. Extensions/Exemptions**

A. Licensees on extended active military service outside the state of Louisiana during the applicable reporting period and who do not engage in delivering psychological services within the state of Louisiana may be granted an extension or an exemption if the board receives a timely confirmation of such status.

B. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2354

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners of Psychologists, LR 19:47 (January 1993), amended LR 32:1229 (July 2006), LR 39:2755 (October 2013), LR 42:

**§815. Reinstatement**

A. - B. ...

1. The board may require documentation of continuing professional development prior to reinstating a license.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2357.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners of Psychologists, LR 19:47 (January 1993), LR 39:2756 (October 2013), amended LR 42:

**Chapter 9. Licensees**

**§901. Reinstatement of Lapsed Licenses**

A. If the licensee is not renewed by the end of July, due notice having been given, the license shall be regarded as lapsed for the year beginning with that August. Such lapsed license shall not be listed in the directory.

B. The person shall not practice psychology in Louisiana while the license is lapsed.

C. Within two years of the lapsing of such license, the licensee may submit an application for reinstatement for board review along with the payment of a reinstatement fee equal to the current application fee and the current renewal

fee. Applicants who appear for reinstatement after one year of the lapsing of his/her license are required to submit to a criminal background check.

D. After two years of the lapsing of such license, the licensee may submit an application for reinstatement for board review along with the payment of a reinstatement fee equal to the current application fee and the current renewal fee provided that the person is in compliance with R.S. 37:2357.A and the rules and regulations of the board. Applicants for reinstatement received after two years are required to submit to a criminal background check and oral examination.

E. A lapsed license shall be reinstated as of the date all applicable requirements of R.S. 37:2357 have been met. However, the board retains the right to reinstate licenses retroactively in unusual circumstances as specified in the policy and procedures of the LSBEP.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2357.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Examiners of Psychologists, LR 42:

#### **§902. Provisional License Renewal [Formerly §901]**

A. A psychologist is eligible to renew their provisional license until July 31 of each year upon submission of the required renewal fee, renewal application form and fulfillment of all continuing education requirements as defined in LAC 46:LXIII.Chapter 8.

B. A provisional license may be valid for one year beginning August 1 through July 31 for each renewal period.

C. A person whose provisional license has been suspended is not eligible for renewal. Reinstatement procedures of a suspended provisional license are at the discretion of the board.

D. A person whose provisional license has been revoked is not eligible for renewal.

E. Provisionally licensed psychologists shall be eligible for renewal of provisional licensure no more than three consecutive years.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2353.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners of Psychologists, LR 41:2619 (December 2015), repromulgated LR 42:

#### **§903. Lapsed Provisional License [Formerly §902]**

A. If a provisional license is not renewed by July 31, due notice having been given, the license shall be regarded as lapsed for the year beginning with that August. Such license is not eligible for reinstatement unless such requirements are satisfied within six months from the date of lapse.

B. If a provisional license lapses for a period longer than 6 months, one may make a new application to the board. It is at the discretion of the board that any requirements not fulfilled during the year prior to lapse be completed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2353.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners of Psychologists, LR 41:2620 (December 2015), repromulgated LR 42:

#### **§904. Contact Information [Formerly §903]**

A. A licensed psychologist shall notify the board within 30 days, with documentation, attesting to any change of contact information including mailing address, work address, telephone number and email address. This documentation notice shall include the psychologist's, full name, license number, and the old and new contact information.

B. Should a psychologist be displaced to a temporary location due to an emergency, the psychologist shall notify the board within 30 days, with documentation attesting to the temporary change in contact information. The documented notice shall include the psychologist's full name, license number, old and new temporary contact information.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2357.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners of Psychologists, LR 32:1227 (July 2006), amended LR 39:2754 (October 2013), repromulgated LR 42:

#### **Family Impact Statement**

The Board of Examiners of Psychologists hereby issues this Family Impact Statement as set forth in R.S. 49:972. The proposed Rule related to the continuing education requirements of psychologists will have no known or foreseeable impact on the stability of the family; authority and rights of parents regarding the education and supervision of their children; functioning of the family; family earnings and family budget; behavior and personal responsibility of children; or, the ability of the family or a local government to perform the function as contained in the proposed Rule.

#### **Poverty Impact Statement**

The proposed modifications regulate licensed psychologists in the interest of health, safety and the welfare of the public. The Rule does not have any known or foreseeable impact on any child, individual or family as defined by R.S. 49:973.B. Specifically, there is no known or foreseeable effect on: household income, assets, and financial security; early childhood development and preschool through postsecondary education development; employment and workforce development; taxes and tax credits; or, child and dependent care, housing, health care, nutrition, transportation, and utilities assistance.

#### **Provider Impact Statement**

The proposed Rule does not have any known or foreseeable impact on providers as defined by HCR 170 of 2014 Regular Legislative Session. Specifically, there is no known or foreseeable effect on: the staffing level requirements or qualifications required to provide the same level of service; the total direct or indirect cost to the providers to provide the same level of service; or the overall ability of the provider to provide the same level of service.

#### **Public Comments**

Interested persons may submit written comments to Jaime T. Monic, Executive Director, 8706 Jefferson Highway, Suite B, Baton Rouge, LA 70809. All comments must be submitted by 12 noon on April 9, 2016.

Jaime T. Monic  
Executive Director



## FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

### RULE TITLE: Continuing Education and Licenses

#### I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The estimated implementation cost for this rule totals approximately \$500 in FY 2015-16 and applies only to the Board of Examiners of Psychologists. Those costs are related to publishing the proposed and final rule in the Louisiana Register.

#### II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

No impact on state or local government revenue collections is anticipated as a result of the proposed rule change.

#### III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This amendment provides clarification to current continuing education rules for approximately 700 licensed psychologists in Louisiana. Continuing education is required for license renewal. This amendment does not impose any additional requirements for continuing education, nor would it have a financial impact on those licensed psychologists or the non-governmental groups who provide continuing education to licensed psychologists. The amendments are proposed solely to provide consistency and clarify what constitutes acceptable continuing education, proper calculation of credits, documentation required to prove credits, and to reinstate the requirements for renewal of a lapsed license.

#### IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

No effect on competition and employment is anticipated as a result of this rule change.

Jaime T. Monic  
Executive Director  
1603#032

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office

### NOTICE OF INTENT

#### Department of Health and Hospitals Board of Examiners of Psychologists

Ethical Standards (LAC 46:LXIII.1301)

Notice is hereby given in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Board of Examiners of Psychologists intends to amend LAC 46:LXIII.1301.

#### Title 46

### PROFESSIONAL AND OCCUPATIONAL STANDARDS

#### Part LXIII. Psychologists

##### Subpart 1. General Provisions

#### Chapter 13. Ethical Standards of Psychologists

##### §1301. Ethical Principles and Code of Conduct

A. The Board of Examiners of Psychologists incorporates by reference and maintains that Psychologists shall follow the APA Ethical Principles of Psychologists and Code of Conduct as adopted by the American Psychological Association's Council of Representatives during its meeting, August 21, 2002, and made effective beginning June 1, 2003 with the 2010 Amendments: Adopted by APA on February 20, 2010, and made effective June 1, 2010. The Ethics Code

and information regarding the code can be found on the APA web site, <https://www.apa.org/ethics/code/principles.pdf>, or from the LSBEP web site at <http://www.lsbep.org>.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2353.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Examiners of Psychologists, LR 6:66 (February 1980), amended LR 10:791 (October 1984), amended by the Department of Health and Hospitals, Board of Examiners of Psychologists, LR 29:703 (May 2003), LR 41:2620 (December 2015), LR 42:

#### Family Impact Statement

The Board of Examiners of Psychologists hereby issues this Family Impact Statement as set forth in R.S. 49:972. The proposed Rule related to the requirements for the ethical practice of psychologists will have no known or foreseeable impact on the stability of the family; authority and rights of parents regarding the education and supervision of their children; functioning of the family; family earnings and family budget; behavior and personal responsibility of children; or, the ability of the family or a local government to perform the function as contained in the proposed Rule.

#### Poverty Impact Statement

The proposed modifications regulate licensed psychologists in the interest of health, safety, and the welfare of the public. The rules do not have any known or foreseeable impact on any child, individual or family as defined by R.S. 49:973(B). Specifically, there is no known or foreseeable effect on: household income, assets, and financial security; early childhood development and preschool through postsecondary education development; employment and workforce development; taxes and tax credits; or, child and dependent care, housing, health care, nutrition, transportation, and utilities assistance.

#### Provider Impact Statement

The proposed Rule does not have any known or foreseeable impact on providers as defined by HCR 170 of 2014 Regular Legislative Session. Specifically, there is no known or foreseeable effect on: the staffing level requirements or qualifications required to provide the same level of service; the total direct or indirect cost to the providers to provide the same level of service; or the overall ability of the provider to provide the same level of service.

#### Public Comments

Interested persons may submit written comments to Jaime T. Monic, Executive Director, 8706 Jefferson Highway, Suite B, Baton Rouge, LA 70809. All comments must be submitted by 12 pm on April 9, 2016.

Jaime T. Monic  
Executive Director

## FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

### RULE TITLE: Ethical Standards

#### I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The estimated implementation cost for this rule is approximately \$100 in FY 2015-16 and applies only to the Board of Examiners of Psychologists. Those costs are related to publishing the proposed and final rule in the Louisiana Register.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

No impact on state or local government revenue collections is anticipated as a result of the proposed rule change.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This amendment is in accordance with LA R.S.37:2353 and is proposing to adopt the most recent ethical standards and code of conduct for psychologists published by the American Psychological Association. Psychologists have adhered to the nationally accepted ethical principals and code of conduct since 1980.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

No effect on competition and employment is anticipated as a result of this rule change.

Jaime T. Monic  
Executive Director  
1603#031

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Department of Health and Hospitals  
Board of Nursing**

**Nursing Practice (LAC 46:XLVII.Chapter 37)**

Notice is hereby given in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and through the authority granted in R.S. 37:918, that the Louisiana State Board of Nursing (LSBN) is proposing changes to LAC 46:XLVII.3703.A.a.iv.c and devising the new Section LAC 46:XLVII.3709. The Nurse Practice Act provides that the registered nurse and APRN may delegate selected nursing functions approved by the board; however medication administration has previously been considered a complex task that has not been deemed delegable to unlicensed personnel in any circumstances. The proposed Rule changes provide for such delegation in limited and specific circumstances. The Act and rules assign to the registered nurse and APRN the responsibility of providing the same quality of patient care as provided by the registered nurse when tasks are delegated. The administrative rules also address specific criteria that must be met in order for the registered nurse to delegate tasks.

**Title 46**

**PROFESSIONAL AND OCCUPATIONAL  
STANDARDS**

**Part XLVII. Nurses: Practical Nurses  
and Registered Nurses**

**Chapter 37. Nursing Practice**

**§3703. Definition of Terms Applying to Nursing  
Practice**

A. Terms applying to legal definitions of nursing practice, R.S. 37:913(13) and (14).

\* \* \*

*Delegating Nursing Interventions*—entrusting the performance of selected nursing tasks by the registered nurse to other competent nursing personnel in selected situations. The registered nurse retains the accountability for the total nursing care of the individual. The registered nurse is responsible for and accountable to each consumer of nursing care for the quality of nursing care he or she receives,

regardless of whether the care is provided solely by the registered nurse or by the registered nurse in conjunction with other licensed or unlicensed assistive personnel.

a. - a.iv.(b). ...

(c). The administration of medications is a complex task when it requires the consideration of a number of factors and the formulation of judgments according to those factors. Delegation of medication administration to unlicensed assistive personnel is prohibited except as authorized and provided for in LAC 46:XLVII.3709.

\* \* \*

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 37:918, R.S. 37:911, R.S. 37:913 and R.S. 37:935.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Human Resources, Board of Nursing LR 7:79 (March 1981), amended LR 10:598 (August 1984), LR 12:677 (October 1986), amended by the Department of Health and Hospitals, Board of Nursing, LR 24:1293 (July 1998), LR 32:245 (February 2006), LR 42:

**§3709. Delegation of Medication Administration to  
Unlicensed Assistive Personnel in Outpatient  
Clinic Settings**

A. Introduction. Registered nurses and advanced practice registered nurses may delegate medication administration in outpatient clinic settings for patients with stable and predictable health conditions under specific provisos as provided for in this Subpart. When delegating to unlicensed assistive personnel, the registered nurse or advanced practice registered nurse is authorizing the unlicensed assistive personnel to perform a task that is normally within the registered nurse's or advanced practice registered nurse's scope of practice. Prior to agreeing to delegate tasks including medication administration, the registered nurse or advanced practice registered nurse is responsible for understanding rules relative to delegating nursing care and for achieving the competence to delegate and supervise.

**B. Definitions**

*Administration of Medication*—removal of an individual dose from a previously dispensed or distributed, properly labeled container, verifying the dose and medication with the prescriber's order, giving the individual dose to the proper patient at the proper time by the proper route and promptly recording the time and dose given.

*Delegation*—entrusting the performance of selected nursing tasks by the registered nurse to other competent nursing personnel in selected situations. The registered nurse or advanced practice registered nurse retains the accountability for the total nursing care of the individual. The registered nurse and advanced practice registered nurse is responsible for and accountable to each consumer of nursing care for the quality of nursing care he or she receives, regardless of whether the care is provided solely by the registered nurse/advanced practice registered nurse or by the registered nurse/advanced practice registered nurse in conjunction with other licensed or unlicensed assistive personnel.

*Direct Supervision*—the registered nurse or advanced practice registered nurse is physically present in the office or suite where the procedure, including medication administration, is being performed at all times that the unlicensed assistive personnel is on duty providing services. Direct supervision also includes ongoing oversight, follow-up and evaluation of the individual patient and the ongoing

oversight, follow-up and evaluation of competency of the unlicensed assistive personnel.

*Outpatient Clinic Setting*—nonresidential facilities, that provides treatment for health conditions that is obtained on an outpatient basis which allows patients to return to and function in their usual environment. Outpatient clinic settings for the purpose of this subpart do not include facilities such as hospitals, emergency rooms, and ambulatory surgical centers.

*Person-Specific*—health care needs and related factors in order to meet the unique needs of the specific person receiving care.

*Stable and Predictable*—a situation in which the person's clinical and behavioral status is determined by a licensed registered nurse or advanced practice registered nurse to be non-fluctuating and consistent. A stable and predictable condition involves long term health care needs which are recuperative in nature, do not require the regular scheduled presence or reassessment of a licensed nurse, and is not characterized by rapid changes.

*Unlicensed Assistive Personnel*—an unlicensed individual who is trained to function in an assistive role to the licensed nurse in the provision of patient activities as delegated by the nurse. Unlicensed assistive personnel have no authority to provide nursing care, despite any education or training, without the delegation of such care and tasks from registered nurses or advanced practice registered nurses.

C. Responsibilities. Registered nurses and advanced practice registered nurses may delegate medication administration in outpatient clinic settings provided the following conditions are met.

1. The registered nurse or advanced practice registered nurse has assessed the health status of the individual immediately prior to the delegation, and the patient's health condition is determined to be stable and predictable.

2. The registered nurse or advanced practice registered nurse provides direct supervision and retains the accountability for the total nursing and advanced practice nursing care of the individual and retains the responsibility to:

- i. assess the patient;
- ii. develop and implement the plan of care;
- iii. determine that the medication administration can be safely and legally delegated;
- iv. ensure the medication administration is properly documented in the patient's record;
- v. ascertain the training and competency of the unlicensed assistive personnel to whom the registered nurse or advanced practice registered nurse delegates the administration of medication;
- vi. rescind the delegation if the patient's condition changes, it is determined that the unlicensed assistive personnel is not safe or competent to administer the medication, or as otherwise determined by the registered nurse or advanced practice registered nurse.

3. The delegation of medication administration to unlicensed assistive personnel must be person-specific, and the unlicensed assistive personnel must:

- i. be adequately trained for the task;
- ii. have demonstrated that the task has been learned;

iii. be able to perform the task safely in the given nursing situation;

- iv. be safe for the person to carry out the task;
- v. have appropriate supervision available during the task implementation.

4. The delegation of medication administration by the unlicensed assistive personnel must be an established policy of the practice setting and include all aspects of LAC 46:XLVII.3709.G at a minimum. The policy must be written, recorded, and available to all.

5. The registered nurse or advanced practice registered nurse and the unlicensed assistive personnel must be employed by the same organization or otherwise be formally accountable to the same institution or organization.

D. Prohibitions and Exceptions

1. Under no circumstances shall a registered nurse or advanced practice registered nurse delegate the administration of:

- i. drugs given by the intravenous route;
- ii. blood and blood products;
- iii. investigational drugs;
- iv. cancer therapeutic agents;
- v. total parenteral nutrition solutions;
- vi. drugs given through accessing an implanted device;
- vii. insulin;
- viii. oxygen;
- ix. controlled substances;
- x. anesthetic agents;
- xi. any agents used in the provision of cosmetic and aesthetic dermatological procedures.

2. The delegation of medication administration is person-specific and is in no way considered a certification or skill that authorizes the unlicensed assistive personnel to utilize the title or credentials of other professionals including licensed persons.

3. These rules do not apply to inpatient facilities, licensed emergency departments of a hospital, long term care facilities, any residential facilities, or any other facility in which a registered nurse is required to be present by statute or administrative rule.

4. This Subpart, LAC 46:XLVII.3709, does not apply to nursing students enrolled in board approved nursing programs while practicing under the direct supervision of qualified faculty and preceptors.

5. The registered nurse or advanced practice registered nurse shall not delegate medication administration or any other task if the intervention requires the registered nurse's or advanced practice registered nurse's judgment to safely alter the standard procedure in accordance with the needs of the patient; or requires the consideration of a number of factors in order to perform the procedure; or requires judgment to determine how to proceed from one step to the next.

6. The reconstitution of and the calculation of any medication doses except for measuring a prescribed amount of a liquid medication for oral administration or breaking a tablet for administration as instructed by the registered nurse or advanced practice registered nurse shall not be delegated to unlicensed assistive personnel.

7. The registered nurse or advanced practice registered nurse shall not delegate any responsibilities of delegating

including but not limited to all provisions in LAC 46:XLVII.3709.C.

E. Training. In order for a registered nurse or advanced practice registered nurse to be authorized by the board to delegate medication administration under LAC 46:XLVII.3709, there must be documented, formal training performed by a registered nurse or advanced practice registered nurse of the unlicensed assistive personnel.

1. The formal training must include, at a minimum, didactic and demonstrated competency in:
  - i. legal aspects of administering medication;
  - ii. medical terminology;
  - iii. proper documentation;
  - iv. principles and rights of medication administration;
  - v. administration techniques; and
  - vi. patient consent.

F. Organizational Policy. Registered nurses or advanced practice registered nurses and facilities that allow for delegating medication administration to unlicensed assistive personnel are responsible for ensuring that there is an approved organizational policy in place that:

1. addresses and allows delegation of medication administration to unlicensed assistive personnel;
2. establishes and provides for formal processes for documenting and reporting medication errors as committed by the unlicensed assistive personnel. Such provisions must provide for remediation of the unlicensed assistive personnel, registered nurse or advanced practice registered nurse, and system as appropriate;
3. provides mechanisms for documenting in writing the training and ongoing competency of the unlicensed assistive personnel and ensures that the delegating registered nurse or advanced practice registered nurse has access to such competence information;
4. provides for a formally documented, written annual review and re-assessment of competency of the unlicensed assistive personnel on no less than an annual basis and ensures that the delegating registered nurse or advanced practice registered nurse has access to such competence information;
5. provides for and recognizes that the decision to delegate tasks including delegation of medication administration in any specific situation is at the final discretion of the registered nurse or advanced practice registered nurse who is providing direct and immediate care to the patient;
6. provides for documentation and review of other pertinent procedures such as needle stick injuries, universal precautions, and infection control.

G. Limitations

1. All unlicensed assistive personnel who have been trained or otherwise recognized or authorized to administer medication in another jurisdiction or under the provisions of another code, rule, statute or other law body in Louisiana must meet the provisions of LAC 46:XLVII.3709 in order to administer medication in outpatient clinic settings through the delegation from registered nurses and advanced practice registered nurses.

H. Failure to abide by any provision of this Part may result in formal disciplinary action.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:918.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Nursing, LR 42:

**Family Impact Statement**

The proposed additions and/or changes to the rules of the board, Louisiana State Board of Nursing should not have any known or foreseeable impact on any family as defined by R.S. 49:972(D) or on family formation, stability and autonomy. Specifically, there should be no known or foreseeable effect on:

1. the stability of the family;
2. the authority and rights of parents regarding the education and supervision of their children;
3. the functioning of the family;
4. a family's earnings and budget;
5. the behavior and personal responsibility of the children; or
6. the family's ability or that of the local government to perform the function as contained in the proposed Rule.

**Poverty Impact Statement**

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will not have an impact on child, individual, or family poverty in relation to individual or community asset development as described on R.S. 49:973.

**Provider Impact Statement**

In compliance with House Concurrent Resolution (HCR) 170 of the 2014 Regular Session of the Louisiana Legislature, the provider impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will not have an impact on the staffing level requirements or qualifications required to provide the same level of service, no direct or indirect cost to the provider to provide the same level of service, and will have no impact on the provider's ability to provide the same level of service as described in HCR 170.

**Public Comments**

Interested persons may submit written comments on the proposed Rule to Karen C. Lyon, 17373 Perkins Road, Baton Rouge, LA 70810, or by facsimile to (225) 755-7585. All comments must be submitted by 5 p.m. on or before April 10, 2016.

Karen C. Lyon  
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: Nursing Practice**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO  
STATE OR LOCAL GOVERNMENT UNITS (Summary)**

Other than publication costs associated with the proposed rule changes, which are estimated to be \$950 in FY 16, it is not anticipated that state or local governmental units will incur any other costs or savings as a result of promulgation of the proposed rule. The proposed rule changes to LAC 46:XLVII 3703.A.a.iv.c would allow for unlicensed medical assistive personnel, specifically certified medical assistants, to provide such services as medication administration. The Nurse Practice Act provides that the registered nurse may delegate selected nursing functions approved by the Board. Specific criteria must be met in order for the registered nurse to delegate tasks and or functions. The addition of a new section LAC 46:XLVII 3709

will provide the requirements deemed necessary to allow registered nurses and Advanced Practice Registered Nurses (APRNs) the authority to delegate medication administration in outpatient clinic settings for patients with stable and predictable health conditions.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule changes will not affect state or local governmental revenue collections.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule changes are not anticipated to result in costs and/or economic benefits to any person or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule changes do not affect competition and/or employment.

Karen C. Lyon  
Executive Director  
1603#075

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Department of Health and Hospitals  
Bureau of Health Services Financing**

Administrative Procedures  
Tribal Consultation Process  
(LAC 50:I.105)

The Department of Health and Hospitals, Bureau of Health Services Financing proposes to adopt LAC 50:I.105 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

Federal regulations at §1902(a)(73) of the Social Security Act (the Act) requires states in which one or more Indian Health Programs or Urban Indian Organizations furnish health care services to establish a process for the State Medicaid agency to seek advice on a regular, ongoing basis from designees of Indian health programs, whether operated by the Indian Health Service (HIS), tribes or tribal organizations under the Indian Self-Determination and Education Assistance Act (ISDEAA) or Urban Indian Organizations under the Indian Health Care Improvement Act (IHCIA). Section 2107(e)(I) of the Act was also amended to apply these requirements to the Children's Health Insurance Program (CHIP). Consultation is required concerning Medicaid and CHIP matters having a direct impact on Indian health programs and Urban Indian Organizations.

In compliance with the provisions of §§1902(a)(73) and 2107(e)(I), the Department of Health and Hospitals, Bureau of Health Services Financing submitted the required Medicaid State Plan Amendment (SPA) under transmittal number (TN) 12-13 in June 2012 and secured federal approval of the Medicaid Program's tribal consultation process from the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS). The tribal consultation process must be completed

for all Medicaid State Plan, waiver, and CHIP submissions to CMS.

CMS has now determined that LA SPA TN 12-13 needs to be amended in order to clarify the regulations governing the provisions relative to waiver submissions, and has directed the department to submit a corresponding SPA to make the necessary revisions. In compliance with CMS' directive, the department proposes to adopt provisions governing the tribal consultation process in the Medicaid Program and to promulgate these provisions in a codified format for inclusion in the *Louisiana Administrative Code*. This proposed rule will also satisfy the technical requirements for federal public notice for submission of the corresponding SPA.

**Title 50**

**PUBLIC HEALTH—MEDICAL ASSISTANCE**

**Part I. Administration**

**Subpart 1. General Provisions**

**Chapter 1. Administrative Procedures**

**§105. Tribal Consultation Process**

A. Pursuant to §1902(a)(73) and §2107(e)(I) of the Social Security Act, the Medicaid Program hereby establishes a process to seek advice on a regular, ongoing basis from designees of the state's federally-recognized Indian tribal organizations and Indian health programs about Medicaid and Children's Health Insurance Program matters that may have a direct impact on Indian health programs and tribal organizations.

B. The department shall comply with the technical requirements for providing verification of the tribal consultation process to the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS) when changes to the Medicaid Program are submitted through:

1. State Plan amendments;
2. waivers, including:
  - a. newly proposed submissions;
  - b. amendments;
  - c. extensions;
  - d. renewals; and
  - d. waiver terminations.

C. In accordance with the approved Medicaid State Plan governing the tribal consultation process, the Medicaid Program will periodically provide a summary, which includes the changes being made by the Medicaid Program, to the federally-recognized Louisiana tribal organizations to initiate the tribal consultation process.

1. Tribal organizations will have 30 days to respond with any comments, unless the date for submission of the changes to CMS becomes critical and needs to be expedited. Expedited submissions will have a 7-day comment period. This notification and comment period applies to all State Plan and waiver submissions.

2. If comments are received, they will be forwarded to the State Medicaid Director, or his/her designee, for further consideration. If no comments are received within the 30- or 7-day time frame, the Medicaid Program will make the assumption the tribes agree with the provisions in the proposed State Plan and waiver documents and proceed accordingly.

D. The tribal comment period must expire prior to the submission of State Plan and waiver documents to CMS.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 42:

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), if it is determined that submission to CMS for review and approval is required.

#### **Family Impact Statement**

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have no impact on family functioning, stability or autonomy as described in R.S. 49:972.

#### **Poverty Impact Statement**

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on child, individual, or family poverty in relation to individual or community asset development as described in R.S. 49:973.

#### **Provider Impact Statement**

In compliance with House Concurrent Resolution (HCR) 170 of the 2014 Regular Session of the Louisiana Legislature, the provider impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on the staffing level requirements or qualifications required to provide the same level of service, no direct or indirect cost to the provider to provide the same level of service, and will have no impact on the provider's ability to provide the same level of service as described in HCR 170.

#### **Public Comments**

Interested persons may submit written comments to Jen Steele, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821—9030 or by email to MedicaidPolicy@la.gov. Ms. Steele is responsible for responding to inquiries regarding this proposed Rule.

#### **Public Hearing**

A public hearing on this proposed Rule is scheduled for Thursday, April 28, 2016 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Rebekah E. Gee MD, MPH  
Secretary

### **FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Administrative Procedures Tribal Consultation Process**

#### **I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

It is anticipated that implementation of this proposed rule will have no programmatic fiscal impact to the state other than the cost of promulgation for FY 15-16. It is anticipated that

\$648(\$324 SGF and \$324 FED) will be expended in FY 14-15 for the state's administrative expense for promulgation of this proposed rule and the final rule.

#### **II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

It is anticipated that the implementation of this proposed rule will not affect revenue collections other than the federal share of the promulgation costs for FY 15-16. It is anticipated that \$324 will be collected in FY 15-16 for the federal share of the expense for promulgation of this proposed rule and the final rule.

#### **III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

This proposed Rule adopts provisions governing the federally-mandated tribal consultation process in the Medicaid Program, and promulgates the provisions in a clear and concise manner for inclusion in the Louisiana Administrative Code. It is anticipated that implementation of this proposed rule will have no economic cost or benefit to the Medicaid Program for FY 15-16, FY 16-17 and FY 17-18.

#### **IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

This rule has no known effect on competition and employment.

Jen Steele  
Interim Medicaid Director  
1603#059

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office

### **NOTICE OF INTENT**

#### **Department of Health and Hospitals Bureau of Health Services Financing and Office for Citizens with Developmental Disabilities**

Home and Community-Based Services Waivers  
Children's Choice Waiver—Unit of Reimbursement  
(LAC 50:XXI.12101)

The Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities propose to amend LAC 50:XXI.12101 under the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950, et seq.

The Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities amended the provisions governing the Children's Choice Waiver in order to adopt requirements mandating that providers utilize the electronic verification system designated by the department for automated scheduling, time and attendance tracking and billing for certain home and community-based services (*Louisiana Register*, Volume 41, Number 7).

Act 299 of the 2011 Regular Session of the Louisiana Legislature directed the department to implement certain policy and licensing provisions governing home and community-based services (HCBS) and mandated cost reporting for HCBS providers. In compliance with Act 299, the department has determined that it is necessary to amend the provisions governing the Children's Choice Waiver in

order to further clarify the reimbursement methodology, remove language that provides historical information pertaining to the rate reimbursement and revise the terminology associated with Children's Choice Waiver reimbursements.

#### **Title 50**

#### **PUBLIC HEALTH—MEDICAL ASSISTANCE**

#### **Part XXI. Home and Community-Based Services**

#### **Waivers**

#### **Subpart 9. Children's Choice**

#### **Chapter 121. Reimbursement**

#### **§12101. Unit of Reimbursement**

A. ...

B. Direct service providers shall be reimbursed according to the following unit of reimbursement approach. Actual rates will be published in the Children's Choice Waiver provider manual, and will be subsequently amended by direct notification to the affected providers. For services provided by a subcontractor agency, the enrolled direct service provider shall coordinate and reimburse the subcontractor according to the terms of the contract and retain the administrative costs.

1. Family support, crisis support, center-based respite, aquatic therapy, art therapy, music therapy, sensory integration and hippotherapy/therapeutic horseback riding services shall be reimbursed at a flat rate per 15-minute unit of service and reimbursement shall not be made for less than 15-minute (one quarter-hour) of service. This covers both service provision and administrative costs.

a. Up to two participants may choose to share family support services if they share a common provider of this service.

b. Up to two participants may choose to share crisis support services if they share a common provider of this service.

c. There is a separate reimbursement rate when these services are shared.

2. - 3. ...

4. Direct Support Professionals Wages

a. The minimum hourly rate paid to providers for full-time equivalent (FTE) direct support professionals shall be the federal minimum wage in effect at the time.

B.4.b. - D.1.c. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 28:1987 (September 2002), LR 33:1872 (September 2007), amended by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 34:250 (February 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 36:324 (February 2010), LR 36:2280 (October 2010), LR 37:2157 (July 2011), LR 39:2504 (September 2013), LR 40:68 (January 2014), LR 41:128 (January 2015), LR 42:

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), if it is determined that submission to CMS for review and approval is required.

#### **Family Impact Statement**

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed

Rule on the family has been considered. It is anticipated that this proposed Rule will have no impact on family functioning, stability and autonomy as described in R.S. 49:972.

#### **Poverty Impact Statement**

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on child, individual, or family poverty in relation to individual or community asset development as described in R.S. 49:973.

#### **Provider Impact Statement**

In compliance with House Concurrent Resolution (HCR) 170 of the 2014 Regular Session of the Louisiana Legislature, the provider impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on the staffing level requirements or qualifications required to provide the same level of service, no direct or indirect cost to the provider to provide the same level of service, and will have no impact on the provider's ability to provide the same level of service as described in HCR 170.

#### **Public Comments**

Interested persons may submit written comments to Jen Steele, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030 or by email to MedicaidPolicy@la.gov. Ms. Steele is responsible for responding to inquiries regarding this proposed Rule. The deadline for receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

#### **Public Hearing**

A public hearing on this proposed Rule is scheduled for Thursday, April 28, 2016 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing.

Rebekah E. Gee MD, MPH  
Secretary

#### **FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES**

#### **RULE TITLE: Home and Community-Based Services Waivers—Children's Choice Waiver Unit of Reimbursement**

#### **I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

It is anticipated that implementation of this proposed rule will have no programmatic fiscal impact to the state other than the cost of promulgation for FY 15-16. It is anticipated that \$540 (\$270 SGF and \$270 FED) will be expended in FY 15-16 for the state's administrative expense for promulgation of this proposed rule and the final rule.

#### **II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

It is anticipated that the implementation of this proposed Rule will not affect revenue collections other than the federal share of the promulgation costs for FY 15-16. It is anticipated that \$270 will be collected in FY 15-16 for the federal share of the expense for promulgation of this proposed rule and the final rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This proposed Rule amends the provisions governing the Children's Choice Waiver in order to clarify the reimbursement methodology, remove language that provides historical information pertaining to rate reimbursement and revise terminology associated with Children's Choice Waiver reimbursements. The proposed revisions are a policy clarification only and will not impact waiver reimbursement rates or the amount expended for waiver services. It is anticipated that implementation of this proposed rule will not have economic costs or benefits to Children's Choice Waiver service providers for FY 15-16, FY 16-17 and FY 17-18.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule has no known effect on competition and employment.

Jen Steele  
Interim Medicaid Director  
1603#060

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Department of Health and Hospitals  
Bureau of Health Services Financing  
and  
Office of Aging and Adult Services**

Home and Community-Based Services Waivers  
Community Choices Waiver  
Unit of Reimbursement  
(LAC 50:XXI.9501)

The Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services propose to amend LAC 50:XXI.9501 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services amended the provisions governing the Community Choices Waiver in order to clarify the provisions governing monitored in-home caregiving services, and to revise the provisions governing the organized health care delivery system (*Louisiana Register*, Volume 41, Number 12).

Act 299 of the 2011 Regular Session of the Louisiana Legislature directed the department to implement certain policy and licensing provisions governing home and community-based services (HCBS) and mandated cost reporting for HCBS providers. In compliance with Act 299, the department has determined that it is necessary to amend the provisions governing the Community Choices Waiver in order to further clarify the reimbursement methodology, remove language that provides historical information pertaining to the rate reimbursement and revise the

terminology associated with Community Choices Waiver reimbursements.

**Title 50**

**PUBLIC HEALTH—MEDICAL ASSISTANCE**

**Part XXI. Home and Community Based Services**

**Waivers**

**Subpart 7. Community Choices Waiver**

**Chapter 95. Reimbursement**

**§9501. Unit of Reimbursement**

A. Reimbursement for the following services shall be a prospective flat rate for each approved unit of service provided to the participant. One quarter hour (15 minutes) is the standard unit of service, which covers both the service provision and administrative costs for the following services, and reimbursement shall not be made for less than one quarter hour (15 minutes) of service:

1. personal assistance services (except for the "a.m. and p.m." service delivery model);

a. up to three participants may share personal assistance services if they live together and share a common provider of these services; and

b. there is a separate reimbursement rate for shared personal care services.

c. Repealed.

A.2. - B.3. ...

4. transition expenses (not to exceed the maximum lifetime limit set by OAAS); and

B.5. - E. ...

F. The following services shall be reimbursed on a per-visit basis:

1. certain nursing and skilled maintenance therapy procedures; and

2. personal assistance services furnished via "a.m. and p.m." delivery method.

G. The following services shall be reimbursed on a per-visit basis:

1. certain environmental accessibility adaptations; and

2. certain nursing, and skilled maintenance therapy procedures.

H. ...

I. - L.1. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 37:3525 (December 2011), amended LR 39:322 (February 2013), LR 39:508 (March 2013), repromulgated LR 39:1048 (April 2013), amended LR 39:1779 (July 2013), LR 40:793 (April 2014), LR 42:

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), if it is determined that submission to CMS for review and approval is required.

**Family Impact Statement**

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that



this proposed Rule will have no impact on family functioning, stability or autonomy as described in R.S. 49:972.

#### **Poverty Impact Statement**

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on child, individual, or family poverty in relation to individual or community asset development as described in R.S. 49:973.

#### **Provider Impact Statement**

In compliance with House Concurrent Resolution (HCR) 170 of the 2014 Regular Session of the Louisiana Legislature, the provider impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on the staffing level requirements or qualifications required to provide the same level of service, no direct or indirect cost to the provider to provide the same level of service, and will have no impact on the provider's ability to provide the same level of service as described in HCR 170.

#### **Public Comments**

Interested persons may submit written comments to Jen Steele, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821—9030 or by email to MedicaidPolicy@la.gov. Ms. Steele is responsible for responding to inquiries regarding this proposed Rule.

#### **Public Hearing**

A public hearing on this proposed Rule is scheduled for Thursday, April 28, 2016 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Rebekah E. Gee MD, MPH  
Secretary

### **FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES**

#### **RULE TITLE: Home and Community-Based Services Waivers, Community Choices Waiver, Unit of Reimbursement**

#### **I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

It is anticipated that implementation of this proposed rule will have no programmatic fiscal impact to the state other than the cost of promulgation for FY 15-16. It is anticipated that \$540 (\$270 SGF and \$270 FED) will be expended in FY 15-16 for the state's administrative expense for promulgation of this proposed rule and the final rule.

#### **II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

It is anticipated that the implementation of this proposed Rule will not affect revenue collections other than the federal share of the promulgation costs for FY 15-16. It is anticipated that \$270 will be collected in FY 15-16 for the federal share of the expense for promulgation of this proposed rule and the final rule.

#### **III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

This proposed Rule amends the provisions governing the Community Choices Waiver to further clarify the reimbursement methodology, remove language that provides historical information pertaining to the rate reimbursement, and revise the terminology associated with Community Choices Waiver reimbursements. The proposed revisions are a policy clarification only and will not impact waiver reimbursement rates or the amount expended for waiver services. It is anticipated that implementation of this proposed rule will not have economic costs or benefits to Community Choices Waiver providers for FY 15-16, FY 16-17, and FY 17-18.

#### **IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

This rule has no known effect on competition and employment.

Jen Steele  
Interim Medicaid Director  
1603#061

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office

### **NOTICE OF INTENT**

#### **Department of Health and Hospitals Bureau of Health Services Financing and**

#### **Office for Citizens with Developmental Disabilities**

Home and Community-Based Services Waivers  
New Opportunities Waiver  
Unit of Reimbursement  
(LAC 50:XXI.14301)

The Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities propose to amend LAC 50:XXI.14301 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities amended the provisions governing the New Opportunities Waiver (NOW) in order to adopt requirements mandating that providers utilize the electronic verification system designated by the department for automated scheduling, time and attendance tracking and billing for certain home and community-based services (*Louisiana Register*, Volume 41, Number 7).

Act 299 of the 2011 Louisiana Legislative Session directed the department to implement certain policy and licensing provisions governing home and community-based services (HCBS) and mandated cost reporting for HCBS providers. In compliance with Act 299, the department has determined that it is necessary to amend the provisions governing the NOW in order to further clarify the reimbursement methodology, remove language that provides historical information pertaining to the rate reimbursement and revise the terminology associated with New Opportunities Waiver reimbursements.

**Title 50**  
**PUBLIC HEALTH—MEDICAL ASSISTANCE**  
**Part XXI. Home and Community Based Services**  
**Waivers**

**Subpart 11. New Opportunities Waiver**  
**Chapter 143. Reimbursement**  
**§14301. Unit of Reimbursement**

A. Reimbursement for services shall be a prospective flat rate for each approved unit of service provided to the participant. One quarter hour (15 minutes) is the standard unit of service and reimbursement shall not be made for less than 15 minutes (one quarter hour) of service. This covers both service provision and administrative costs for the following services:

1. ...
2. community integration development:
  - a. up to three participants may choose to share community integration development if they share a common provider of this service;
  - b. there is a separate reimbursement rate for community integration development when these services are shared;
3. - 4. ...
5. individualized and family support-day and night:
  - a. up to three participants may choose to share individualized and family support services if they share a common provider;
  - b. there is a separate reimbursement rate for individualized and family support when these services are shared;
6. ...
7. skilled nursing services:
  - a. up to three participants may choose to share skilled nursing services if they share a common provider;
  - b. there is a separate reimbursement rate for skilled nursing services when these services are shared;
- c. ...
- d. - e. Repealed.
- A.8. - E. ...
- F. Remote assistance is paid through an hourly rate.
  1. - 10.d. Repealed
- G. Direct Support Professionals Wages. The rate paid to direct support professionals shall be the federal minimum wage in effect at the time.

G.1. - L. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Community Supports and Services, LR 30:1209 (June 2004), amended by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 34:252 (February 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 35:1851 (September 2009), amended LR 36:1247 (June 2010), LR 37:2158 (July 2011), LR 39:1049 (April 2013), LR 40:80 (January 2014), LR 42:

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), if it is determined that submission to CMS for review and approval is required.

**Family Impact Statement**

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have no impact on family functioning, stability and autonomy as described in R.S. 49:972.

**Poverty Impact Statement**

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on child, individual, or family poverty in relation to individual or community asset development as described in R.S. 49:973.

**Provider Impact Statement**

In compliance with House Concurrent Resolution (HCR) 170 of the 2014 Regular Session of the Louisiana Legislature, the provider impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on the staffing level requirements or qualifications required to provide the same level of service, no direct or indirect cost to the provider to provide the same level of service, and will have no impact on the provider's ability to provide the same level of service as described in HCR 170.

**Public Comments**

Interested persons may submit written comments to Jen Steele, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821—9030 or by email to MedicaidPolicy@la.gov. Ms. Steele is responsible for responding to inquiries regarding this proposed Rule.

**Public Hearing**

A public hearing on this proposed Rule is scheduled for Thursday, April 28, 2016 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Rebekah E. Gee MD, MPH  
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES**  
**RULE TITLE: Home and Community-Based Services  
Waivers, New Opportunities Waiver,  
Unit of Reimbursement**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

It is anticipated that implementation of this proposed rule will have no programmatic fiscal impact to the state other than the cost of promulgation for FY 15-16. It is anticipated that \$648 (\$324 SGF and \$324 FED) will be expended in FY 15-16 for the state's administrative expense for promulgation of this proposed rule and the final rule.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

It is anticipated that the implementation of this proposed Rule will not affect revenue collections other than the federal

share of the promulgation costs for FY 15-16. It is anticipated that \$324 will be collected in FY 15-16 for the federal share of the expense for promulgation of this proposed rule and the final rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This proposed Rule amends the provisions governing the New Opportunities Waiver in order to clarify the reimbursement methodology, remove language that provides historical information pertaining to the rate reimbursement, and revise terminology associated with New Opportunities Waiver reimbursements. The proposed revisions are a policy clarification only and will not impact waiver reimbursement rates or the amount expended for waiver services. It is anticipated that implementation of this proposed rule will not have economic costs or benefits to New Opportunities Waiver service providers for FY 15-16, FY 16-17 and FY 17-18.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule has no known effect on competition and employment.

Jen Steele  
Interim Medicaid Director  
1603#062

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Department of Health and Hospitals  
Bureau of Health Services Financing  
and  
Office of Aging and Adult Services**

**Home and Community-Based Services Waivers  
Rate Methodology  
(LAC 50:XXI, Chapter 7)**

The Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services propose to amend LAC 50:XXI.701 and adopt §703 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

Act 299 of the 2011 Regular Session of the Louisiana Legislature directed the department to implement certain policy and licensing provisions governing home and community-based services (HCBS) and mandated cost reporting for HCBS providers. In compliance with Act 299, the department adopted provisions establishing cost reporting requirements for providers of home and community-based waiver services (*Louisiana Register*, Volume 39, Number 3). To ensure compliance with these requirements, the department now proposes to amend the provisions governing the home and community-based services waivers in order to further clarify the reimbursement methodology.

**Title 50  
PUBLIC HEALTH—MEDICAL ASSISTANCE  
Part XXI. Home and Community Based Services  
Waivers**

**Subpart 1. General Provisions**

**Chapter 7. Reimbursement Methodology**

**§701. Cost Reporting Requirements**

A. Effective July 1, 2012, the department shall implement mandatory cost reporting requirements for providers of home and community-based waiver services who provide personal care services (including personal care services, personal care attendant services, community living supports services, attendant care services, personal assistance services, in-home respite, and individual and family support services). The cost reports will be used to verify expenditures and to support rate setting for the services rendered to waiver recipients.

B. - C. ....

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 39:509 (March 2013), amended LR 42:

**§703. Rate Methodology**

A. Reimbursement for the following services shall be a prospective flat rate for each approved unit of service that is provided to the recipient:

1. personal care services;
2. personal care attendant services;
3. community living supports services;
4. attendant care services;
5. personal assistance services;
6. in-home respite; and
7. individual and family support services, collectively

referred to as reimbursable assistance services.

B. One quarter hour (15 minutes) shall be the standard unit of service. Reimbursement shall not be paid for the provision of less than one quarter hour (15 minutes) of service.

C. Effective July 1, 2016, a rate validation process will occur to determine the sufficiency of reimbursement rates. This process will be repeated at a minimum of every two years thereafter. The rate validation process will involve the comparison of current provider reimbursement rates to reimbursement rates established using the department's reimbursement methodology.

1. The department's reimbursement methodology will establish an estimated reimbursement rate through the summation of the following two rate component totals:

- a. adjusted staff cost rate component; and
- b. other operational cost rate component.

2. The adjusted staff cost rate component will be determined in the following manner:

a. Direct service worker wage expense, contract labor expense, and hours worked for reimbursable assistance services will be collected from provider cost reports.

i. Collected wage and contract labor expense will be divided by collected hours worked, on an individual cost report basis, to determine a per hour labor rate for direct service workers.

ii. The individual cost report hourly labor rates will be aggregated for all applicable filed cost reports, outliers will be removed, and a simple average statewide labor rate will be determined.

b. A blended direct service worker labor rate will be calculated by comparing the simple average statewide labor rate to the most recently available, as of the calculation of the department's rate validation process, average personal care aide wage rate from the *Louisiana Occupational Employment and Wages* report for all Louisiana parishes published by the Louisiana Workforce Commission (or its successor).

i. If the simple average statewide labor rate is less than the wage rate from the *Louisiana Occupational Employment and Wages* report, a blended wage rate will be calculated using 50 percent of both wage rates.

ii. If the simple average statewide labor rate is equal to or greater than the wage rate from the *Louisiana Occupational Employment and Wages* report, the simple average statewide labor rate will be utilized.

c. An employee benefit factor will be added to the blended direct service worker wage rate to determine the unadjusted hourly staff cost.

i. Employee benefit expense allocated to reimbursable assistance services will be collected from provider cost reports.

ii. Employee benefit expense, on an individual cost report basis, will be divided by the cost report direct service wage and contract labor expense for reimbursable assistance services to calculate employee benefits as a percentage of labor costs.

iii. The individual cost report employee benefit percentages will be aggregated for all applicable filed cost reports, outliers will be removed, and a simple average statewide employee benefit percentage will be determined.

iv. The simple average statewide employee benefit percentage will be multiplied by the blended direct service worker labor rate to calculate the employee benefit factor.

d. The department will be solely responsible for determining if adjustments to the unadjusted hourly staff cost for items that are underrepresented or not represented in provider cost reports is considered appropriate.

e. The unadjusted hourly staff cost will be multiplied by a productive hours adjustment to calculate the hourly adjusted staff cost rate component total. The productive hours' adjustment allows the reimbursement rate to reflect the cost associated with direct service worker time spent performing required non-billable activities. The productive hours' adjustment will be calculated as follows:

i. The department will determine estimates for the amount of time a direct service worker spends performing required non-billable activities during an Eight hour period. Examples of non-billable time include, but are not limited to: meetings, substitute staff, training, wait-time, supervising, etc.

ii. The total time associated with direct service worker non-billable activities will be subtracted from 8 hours to determine direct service worker total billable time.

iii. Eight hours will be divided by the direct service worker total billable time to calculate the productive hours adjustment.

3. The other operational cost rate component will be calculated in the following manner:

a. Capital expense, transportation expense, other direct non-labor expense, and other overhead expense allocated to reimbursable assistance services will be collected from provider cost reports.

b. Capital expense, transportation expense, supplies and other direct non-labor expense, and other overhead expense, on an individual cost report basis, will be divided by the cost report direct service wage and contract labor expense for reimbursable assistance services to calculate other operational costs as a percentage of labor costs.

c. The individual cost report other operational cost percentages will be aggregated for all applicable filed cost reports, outliers will be removed, and a simple average statewide other operational cost percentage will be determined.

d. The simple average other operational cost percentage will be multiplied by the blended direct service worker labor rate to calculate the other operational cost rate component.

4. The calculated department reimbursement rates will be adjusted to a one quarter hour unit of service by dividing the hourly adjusted staff cost rate component and the hourly other operational cost rate component totals by four.

5. The department will be solely responsible for determining the sufficiency of the current reimbursement rates during the rate validation process. Any reimbursement rate change deemed necessary due to rate validation process will be subject to legislative budgetary appropriation restrictions prior to implementation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 42:

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), if it is determined that submission to CMS for review and approval is required.

#### **Family Impact Statement**

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have no impact on family functioning, stability and autonomy as described in R.S. 49:972.

#### **Poverty Impact Statement**

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on child, individual, or family poverty in relation to individual or community asset development as described in R.S. 49:973.

#### **Provider Impact Statement**

In compliance with House Concurrent Resolution (HCR) 170 of the 2014 Regular Session of the Louisiana Legislature, the provider impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will

have no impact on the staffing level requirements or qualifications required to provide the same level of service, no direct or indirect cost to the provider to provide the same level of service, and will have no impact on the provider's ability to provide the same level of service as described in HCR 170.

#### Public Comments

Interested persons may submit written comments to Jen Steele, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821—9030 or by email to MedicaidPolicy@la.gov. Ms. Steele is responsible for responding to inquiries regarding this proposed Rule.

#### Public Hearing

A public hearing on this proposed Rule is scheduled for Thursday, April 28, 2016 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Rebekah E. Gee MD, MPH  
Secretary

### FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

#### RULE TITLE: Home and Community-Based Services Waivers, Rate Methodology

#### I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that implementation of this proposed rule will have no programmatic fiscal impact to the state other than the cost of promulgation for FY 15-16. It is anticipated that \$1,080 (\$540 SGF and \$540 FED) will be expended in FY 15-16 for the state's administrative expense for promulgation of this proposed rule and the final rule.

#### II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that the implementation of this proposed Rule will not affect revenue collections other than the federal share of the promulgation costs for FY 15-16. It is anticipated that \$540 will be collected in FY 15-16 for the federal share of the expense for promulgation of this proposed rule and the final rule.

#### III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This proposed Rule amends the provisions governing the home and community-based services waivers in order to further clarify the reimbursement methodology. The proposed revisions are a policy clarification only and will not impact waiver reimbursement rates or the amount expended for waiver services. It is anticipated that implementation of this proposed rule will not have economic costs or benefits to home and community-based services waivers providers for FY 15-16, FY 16-17 and FY 17-18.

#### IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule has no known effect on competition and employment.

Jen Steele  
Interim Medicaid Director  
1603  
#xx

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office

### NOTICE OF INTENT

#### Department of Health and Hospitals Bureau of Health Services Financing and Office for Citizens with Developmental Disabilities

Home and Community-Based Services Waivers  
Residential Options Waiver  
Unit of Reimbursement  
(LAC 50:XXI.16901 and 16903)

The Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities propose to amend LAC 50:XXI.16901 and §16903 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities amended the provisions governing the Residential Options Waiver (ROW) to allow individuals with developmental disabilities who receive services in the Community Choices Waiver or the Adult Day Health Care Waiver programs to transition into the ROW (*Louisiana Register*, Volume 42, Number 1).

Act 299 of the 2011 Regular Session of the Louisiana Legislature directed the department to implement certain policy and licensing provisions governing home and community-based services (HCBS) and mandated cost reporting for HCBS providers. In compliance with Act 299, the department has determined that it is necessary to amend the provisions governing the ROW to further clarify the reimbursement methodology, remove language that provides historical information pertaining to the rate reimbursement and revise the terminology associated with ROW reimbursements.

#### Title 50

#### PUBLIC HEALTH—MEDICAL ASSISTANCE Part XXI. Home and Community Based Services Waivers

#### Subpart 13. Residential Options Waiver

#### Chapter 169. Reimbursement §16901. Unit of Reimbursement

A. Reimbursement for the following services shall be a prospective flat rate for each approved unit of service provided to the waiver participant. One quarter hour (15 minutes) is the standard unit of service and reimbursement shall not be made for less than one quarter hour of service. This covers both the service provision and administrative costs for these services:

A.1. - J. ...

K. - L.1.d. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 33:2456 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental

Disabilities, LR 39:1049 (April 2013), LR 41:2168, 2169 (October 2015), LR 42:63 (January 2016), LR 42:

#### **§16903. Direct Support Professional Wages**

A. The minimum hourly rate paid to direct support professionals shall be the federal minimum wage in effect at the time.

1. - 6. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 33:2456 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 41:2169 (October 2015), LR 42:

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), if it is determined that submission to CMS for review and approval is required.

#### **Family Impact Statement**

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have no impact on family functioning, stability and autonomy as described in R.S. 49:972.

#### **Poverty Impact Statement**

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on child, individual, or family poverty in relation to individual or community asset development as described in R.S. 49:973.

#### **Provider Impact Statement**

In compliance with House Concurrent Resolution (HCR) 170 of the 2014 Regular Session of the Louisiana Legislature, the provider impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on the staffing level requirements or qualifications required to provide the same level of service, no direct or indirect cost to the provider to provide the same level of service, and will have no impact on the provider's ability to provide the same level of service as described in HCR 170.

#### **Public Comments**

Interested persons may submit written comments to Jen Steele, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030 or by email to MedicaidPolicy@la.gov. Ms. Steele is responsible for responding to inquiries regarding this proposed Rule. The deadline for receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

#### **Public Hearing**

A public hearing on this proposed Rule is scheduled for Thursday, April 28, 2016 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing.

Rebekah E. Gee MD, MPH  
Secretary

## **FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES**

### **RULE TITLE: Home and Community-Based Services Waivers—Residential Options Waiver Unit of Reimbursement**

#### **I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

It is anticipated that implementation of this proposed rule will have no programmatic fiscal impact to the state other than the cost of promulgation for FY 15-16. It is anticipated that \$540 (\$270 SGF and \$270 FED) will be expended in FY 15-16 for the state's administrative expense for promulgation of this proposed rule and the final rule.

#### **II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

It is anticipated that the implementation of this proposed Rule will not affect revenue collections other than the federal share of the promulgation costs for FY 15-16. It is anticipated that \$270 will be collected in FY 15-16 for the federal share of the expense for promulgation of this proposed rule and the final rule.

#### **III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

This proposed Rule amends the provisions governing the Residential Options Waiver in order to clarify the reimbursement methodology, remove language that provides historical information pertaining to the rate reimbursement and revised the terminology associated with ROW reimbursements. The proposed revisions are a policy clarification only and will not impact waiver reimbursement rates or the amount expended for waiver services. It is anticipated that implementation of this proposed rule will not have economic costs or benefits to Residential Options Waiver service providers for FY 15-16, FY 16-17 and FY 17-18.

#### **IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

This rule has no known effect on competition and employment.

Jen Steele  
Interim Medicaid Director  
1603#064

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office

## **NOTICE OF INTENT**

### **Department of Health and Hospitals Bureau of Health Services Financing and Office for Citizens with Developmental Disabilities**

Home and Community-Based Services Waivers  
Supports Waiver  
Unit of Reimbursement  
(LAC 50:XXI.6101)

The Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities propose to amend LAC 50:XXI.6101 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Development Disabilities amended the provisions governing the Supports Waiver in order to adopt requirements mandating that providers utilize the electronic verification system designated by the department for automated scheduling, time and attendance tracking and billing for certain home and community-based services (*Louisiana Register*, Volume 41, Number 7).

Act 299 of the 2011 Louisiana Legislative Session directed the department to implement certain policy and licensing provisions governing home and community-based services (HCBS) and mandated cost reporting for HCBS providers. In compliance with Act 299, the department has determined that it is necessary to amend the provisions governing the Supports Waiver in order to further clarify the reimbursement methodology, remove language that provides historical information pertaining to the rate reimbursement and revise the terminology associated with Supports Waiver reimbursements.

#### **Title 50**

### **PUBLIC HEALTH—MEDICAL ASSISTANCE**

#### **Part XXI. Home and Community Based Services Waivers**

##### **Subpart 5. Supports Waiver**

#### **Chapter 61. Reimbursement**

##### **§6101. Unit of Reimbursement**

A. The reimbursement for all services will be paid on a per claim basis. The reimbursement rate covers both service provision and administration. Services which utilize a prospective flat rate of one quarter hour (15 minutes) will not be paid for the provision of less than one quarter hour of service.

B. - G. ...

H. Direct Support Professionals Wages. The minimum hourly rate paid to direct support professionals shall be the federal minimum wage in effect at the time.

1. - 9.d.Repealed.

I. ...

J. - L.1. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Office for Citizens with Developmental Disabilities, LR 32:1607 (September 2006), amended LR 34:662 (April 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 36:2281 (October 2010), LR 37:2158 (July 2011), LR 39:1050 (April 2013), LR 40:82 (January 2014), LR 40:2587 (December 2014), LR 42:

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), if it is determined that submission to CMS for review and approval is required.

#### **Family Impact Statement**

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have no impact on family

functioning, stability and autonomy as described in R.S. 49:972.

#### **Poverty Impact Statement**

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on child, individual, or family poverty in relation to individual or community asset development as described in R.S. 49:973.

#### **Provider Impact Statement**

In compliance with House Concurrent Resolution (HCR) 170 of the 2014 Regular Session of the Louisiana Legislature, the provider impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on the staffing level requirements or qualifications required to provide the same level of service, no direct or indirect cost to the provider to provide the same level of service, and will have no impact on the provider's ability to provide the same level of service as described in HCR 170.

#### **Public Comments**

Interested persons may submit written comments to Jen Steele, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030 or by email to MedicaidPolicy@la.gov. Ms. Steele is responsible for responding to inquiries regarding this proposed Rule. The deadline for receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

#### **Public Hearing**

A public hearing on this proposed Rule is scheduled for Thursday, April 28, 2016 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing.

Rebekah E. Gee MD, MPH  
Secretary

### **FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES**

#### **RULE TITLE: Home and Community-Based Services Waivers—Supports Waiver Unit of Reimbursement**

##### **I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

It is anticipated that implementation of this proposed rule will have no programmatic fiscal impact to the state other than the cost of promulgation for FY 15-16. It is anticipated that \$432 (\$216 SGF and \$216 FED) will be expended in FY 15-16 for the state's administrative expense for promulgation of this proposed rule and the final rule.

##### **II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

It is anticipated that the implementation of this proposed Rule will not affect revenue collections other than the federal share of the promulgation costs for FY 15-16. It is anticipated that \$216 will be collected in FY 15-16 for the federal share of the expense for promulgation of this proposed rule and the final rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This proposed Rule amends the provisions governing the Supports Waiver in order to clarify the reimbursement methodology, remove language that provides historical information pertaining to the rate reimbursement and revise terminology associated with Supports Waiver reimbursements. The proposed revisions are a policy clarification only and will not impact waiver reimbursement rates or the amount expended for waiver services. It is anticipated that implementation of this proposed rule will not have economic costs or benefits to Supports Waiver providers for FY 15-16, FY 16-17 and FY 17-18.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule has no known effect on competition and employment.

Jen Steele  
Interim Medicaid Director  
1603#065

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Department of Health and Hospitals  
Bureau of Health Services Financing**

Hospital Licensing Standards  
Obstetrical and Newborn Services  
(LAC 48:I.Chapter 95)

The Department of Health and Hospitals, Bureau of Health Services Financing proposes to amend LAC 48:I.9505–9515 as authorized by R.S. 40:2100-2115. This proposed Rule is promulgated in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amended the provisions governing the licensing of hospitals in order to clarify those provisions and to align the requirements for obstetrical and newborn services with recommendations from the *National Guidelines for Perinatal Care (Louisiana Register, Volume 33, Number 2)*.

The department has determined it is necessary to amend the provisions governing the hospital licensing standards in order to align these provisions with current standards of practice and staffing guidelines.

**Title 48**

**PUBLIC HEALTH—GENERAL  
Part I. General Administration**

**Subpart 3. Licensing and Certification**

**Chapter 95. Hospitals**

**Subchapter S. Obstetrical and Newborn Services  
(Optional)**

**§9505. General Provisions**

A. This Subchapter S requires that the level of care on the obstetrical unit and the neonatal intensive care unit shall be at the identical level except for free standing children's hospitals. All hospitals with existing obstetrical and neonatal services shall be in compliance with this Subchapter S within one year of the promulgation date of this Rule. All new providers of obstetrical and neonatal services shall be required to be in compliance with this Subchapter S immediately upon promulgation.

NOTE: For facilities that change the level of care and services of the facility's NICU unit, either decreasing or increasing the level provided, the facility shall submit an attestation of this change to the department's Health Standards Section (HSS) in writing and on the appropriate state neonatal services Medicaid attestation form. Such notice shall be submitted to HSS within 90 days of the facility's change in NICU level provided. For facilities that change the level of care and services of the facility's obstetric unit, by either decreasing or increasing the level provided, the facility shall submit written notice of this change to HSS within 90 days of such change.

B. For purposes of this Subchapter, hospital privileges are such privileges that are unrestricted and approved by the medical staff committee and the governing body that allows the practitioner to perform all duties within their scope of practice and certification(s) at the hospital in which the privileges are granted and such duties are performed.

1. The requirements for privileges, such as active privileges, inpatient privileges or full privileges, shall be defined in hospital policy and approved by each hospital's governing body.

C. In accordance with R.S. 40:2109, a hospital located in a parish with a population of 250,000 people or less shall not be required to maintain personnel in-house with credentials to administer obstetric anesthesia on a 24-hour basis in order to qualify for Medicaid reimbursement for level III, neonatal or obstetric medical services, or as a prerequisite for licensure to provide such services. Personnel with such credentials may be required to be on staff and readily available on a 24-hour on-call basis and demonstrate ability to provide anesthesia services within 20 minutes.

NOTE: The provisions of §9505.C shall not apply to any hospital with level IIS, IIIR or IV obstetrical and neonatal services.

D. For purposes of this Subchapter, the requirements for hospital staff and/or equipment as being immediately or readily available shall be defined by hospital policy and approved by each hospital's governing body.

E. Any transfer agreements shall be in writing and approved by the hospital medical staff and by each hospital's governing body. Transfer agreements shall be reviewed at least annually and revised as needed.

F. For those hospitals providing transports, the qualifications of the transport team shall be in writing, defined by hospital policy and approved by each hospital's governing body. Such qualifications shall be reviewed at least annually and revised as needed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:2427 (November 2003), amended LR 33:284 (February 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 42:

**§9507. Obstetrical Units**

A. ...

B. Levels of Care Units. There are five established obstetrical levels of care units:

1. obstetrical level I unit;
2. obstetrical level II unit;
3. obstetrical level III unit;
4. obstetrical level III regional unit; and
5. obstetrical level IV.

C. Obstetrical services shall be provided in accordance with acceptable standards of practice as delineated in the 2014 *AAP/ACOG Guidelines for Perinatal Care*. Each



advanced level of care unit shall provide all services and meet the personnel requirements of the lower designated units, as applicable, i.e., a level IV unit must meet the requirements of a level I, II, III and III regional unit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:2427 (November 2003), amended LR 33:284 (February 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 42:

**§9509. Obstetrical Unit Functions**

- A. - A.1.a. ...
  - b. There shall be a triage system present in policies and procedures for identification, stabilization and referral of high risk maternal and fetal conditions beyond the scope of care of a level I unit.
  - c. There shall be protocols and capabilities for massive transfusion, emergency release of blood products, and management of multiple component therapy available on-site.
  - d. Postpartum care facilities shall be available on-site.
  - e. There shall be capability to provide for resuscitation and stabilization of inborn neonates.
  - f. The hospital shall have a policy for infant security and an organized program to prevent infant abductions.
  - g. The hospital shall have a data collection and retrieval system and shall report the required data to the appropriate departmental agency or section.
  - h. The hospital shall have a program in place to address the needs of the family, including parent-sibling-neonate visitation.
  - i. The hospital shall have a written transfer agreement with another hospital that has an approved appropriate higher level of care.
  - j. - l. Repealed.
- 2. Personnel Requirements
  - a. Obstetrical services shall be under the medical direction of a qualified physician who is a member of the medical staff with obstetric privileges. The physician shall be board certified or board eligible in obstetrics/gynecology or family practice medicine. The physician has the responsibility of coordinating perinatal services with the pediatric chief of service.
  - b. The nursing staff shall be adequately trained and staffed to provide patient care at the appropriate level of service. Registered nurse to patient ratios may vary in accordance with patient needs.
  - c. ...
  - d. Anesthesia, radiology, ultrasound, electronic fetal monitoring (along with personnel skilled in the use of these) and laboratory services shall be available on a 24-hour basis. Anesthesia services shall be available to ensure performance of a Cesarean delivery within 30 minutes as specified in Subparagraph c above.
  - e. At least one credentialed physician or certified registered nurse midwife shall attend all deliveries, and at least one individual who is American Academy of Pediatrics (AAP) certified in neonatal resuscitation and capable of neonatal resuscitation shall attend all deliveries.
  - f. ...

g. A facility shall have at least one individual with additional education in breastfeeding who is available for support, counseling and assessment of breastfeeding mothers.

h. A facility shall have ability to initiate education and quality improvement programs to maximize patient safety, and/or collaborate with higher-level facilities to do so.

- 3. - 3.d. ...
  - e. For any new construction or major alteration of the obstetrical unit/suite, the hospital shall ensure that the OB unit has a Cesarean delivery room (surgical operative room) to perform Cesarean deliveries at all times.
- B. - B.1.a. ...
  - b. Women with conditions that would result in the delivery of an infant weighing less than 1,500 grams or less than 32 weeks gestation shall be referred to an approved level III or above unit unless the attending physician has documented that the patient is unstable to transport safely. Written transfer agreements with approved obstetrical level III and above units for transfer of these patients shall exist for all obstetrical level II units.
  - c. Ultrasound equipment shall be on site, in the hospital, and available to labor and delivery 24 hours a day.
  - d. - e. Repealed.
- 2. Personnel Requirements
  - a. The chief of obstetric services shall be a board-certified obstetrician or a board eligible candidate for certification in obstetrics. This obstetrician has the responsibility of coordinating perinatal services with the neonatologist or pediatrician in charge of the neonatal intensive care unit (NICU).
  - b. ...
  - c. There shall be a continuous availability of qualified RNs with the ability to stabilize and transfer high-risk women.
  - d. A board-certified or board eligible OB-GYN physician shall be available 24 hours a day.
  - e. A licensed physician board-certified in maternal fetal medicine (MFM) shall be available 24 hours a day for consultation onsite, by telephone, or by telemedicine, as needed.
  - f. Anesthesia services shall be available 24 hours a day to provide labor analgesia and surgical anesthesia.
  - g. A board-certified anesthesiologist with specialized training or experience in obstetric anesthesia shall be available 24 hours a day for consultation.
  - h. Medical and surgical consultants shall be available 24 hours a day to stabilize obstetric patients who have been admitted to the facility or transferred from other facilities.
- C. - C.1. ...
  - a. Women with conditions requiring a medical team approach not available to the perinatologist in an obstetrical level III unit shall be transported to a higher-level unit.
  - b. The unit shall have written cooperative transfer agreements with approved higher level units for the transport of mothers and fetuses requiring care unavailable in an obstetrical level III unit or that are better coordinated at a higher level unit.
  - c. The hospital shall have advanced imaging services available 24 hours a day which will include

magnetic resonance imaging (MRI) and computed topography (CT).

d. The hospital shall have medical and surgical ICUs to accept pregnant women and have qualified critical care providers available as needed to actively collaborate with MFM physicians 24 hours a day.

e. Participation is required in a statewide quality collaborative and database selected by the Medicaid Quality Committee, Maternity subcommittee, with a focus on quality of maternity care. Proof of such participation will be available from the Louisiana DHH website.

f. Equipment and qualified personnel, adequate in number, shall be available onsite to ventilate and monitor women in labor and delivery until they can be safely transferred to the ICU.

g. This unit shall accept maternal transfers as deemed appropriate by the medical staff and governing body.

#### 2. Personnel Requirements

a. The delivery of safe and effective perinatal nursing care requires appropriately qualified registered nurses in adequate numbers to meet the nursing needs of each patient. The hospital shall develop, maintain and adhere to an acuity-based classification system based on nationally recognized staffing guidelines and shall have documentation of such.

i. - iii. Repealed.

b. A board-certified or board-eligible MFM physician with inpatient privileges shall be available 24 hours a day, either onsite, by telephone, or by telemedicine.

c. The director of MFM services shall be a board-certified or board eligible MFM physician.

d. The director of obstetric service shall be a board-certified OB-GYN with active staff privileges in obstetrical care.

e. Anesthesia services shall be available 24 hours a day onsite.

f. A board-certified anesthesiologist with specialized training or experience in obstetric anesthesia shall be in charge of obstetric anesthesia services and shall be available onsite as needed.

g. A full complement of subspecialists, including subspecialists in critical care, general surgery, infectious disease, urology, hematology, cardiology, nephrology, neurology, neonatology and pulmonology shall be available for inpatient consultations.

h. A lactation consultant shall be on staff to assist breastfeeding mothers as needed.

i. A nutritionist and a social worker shall be on staff and available for the care of these patients as needed.

#### D. - D.1. ...

a. This unit shall provide care for the most challenging of perinatal conditions. Women with such conditions requiring a medical team approach not available to the MFM physician in an obstetrical level III Regional unit shall be transported to a level IV unit.

b. This unit shall have written cooperative transfer agreements with a level IV unit for the transport of mothers and fetuses requiring care that is unavailable in the level III regional unit or that is better coordinated at a level IV.

c. This unit shall accept maternal transfers as deemed appropriate by the medical staff and hospital governing body.

#### 2. ...

a. This unit shall have a board-certified or board-eligible OB/GYN available onsite 24 hours a day.

b. The director of MFM services for this unit shall be board-certified in MFM.

i. - iv. Repealed.

c. This unit shall have an anesthesiologist qualified in the delivery of obstetric anesthesia services available to be onsite 24 hours a day.

c.i. - g. Repealed.

#### E. Obstetrical Level IV Unit

##### 1. General Provisions

a. This unit shall provide onsite medical and surgical care of the most complex maternal conditions and critically ill pregnant women and fetuses throughout antepartum, intrapartum, and postpartum care.

##### 2. Unit Requirements

a. This unit shall have perinatal system leadership, including facilitation of maternal referral and transport, outreach education for facilities and health care providers in the region and analysis and evaluation of regional data, including perinatal complications and outcomes and quality improvement.

b. The hospital shall have a data collection and retrieval system and shall report the required data to the appropriate departmental agency or section.

c. Participation is required in the department's designated statewide quality collaborative program.

NOTE: The hospital shall acquire and maintain documented proof of participation.

##### 3. Personnel

a. This unit shall have a MFM care team with the expertise to assume responsibility for pregnant women and women in the postpartum period who are in critical condition or have complex medical conditions. This includes co-management of ICU-admitted obstetric patients. The MFM team members shall have full privileges and shall be available 24 hours per day for onsite consultation and management. This team shall be led by a board-certified MFM physician.

b. The director of obstetric services for this unit shall be a board-certified MFM physician.

c. This unit shall have qualified subspecialists on staff to provide consultation in the care of critically ill pregnant women in the following areas:

- i. cardiothoracic surgery;
- ii. neurosurgery;
- iii. endocrinology; and
- iv. gastroenterology.

d. Obstetrical Medical Subspecialties

Table 1 - Obstetrical Medical Subspecialties				
Each higher level obstetrical unit shall meet the requirements of each lower level obstetrical unit.				
Level I	Level II	Level III	Level III Regional	Level IV
Board Certified or Eligible OB/GYN or Family Practice Physician	Board Certified/Eligible OB/GYN	Board Certified Anesthesiologist	Board Certified Anesthesiologist	Board Certified Anesthesiologist
	Anesthesiologist*	Board Certified OB/GYN	Board Certified OB/GYN	Board Certified OB/GYN
	Clinical Pathologist <sup>1</sup>	Board Certified/Board Eligible MFM <sup>1**</sup>	Board Certified/Board Eligible MFM <sup>**</sup>	Board Certified MFM <sup>**</sup>
	Clinical Radiologist	Clinical Pathologist <sup>1</sup>	Clinical Pathologist <sup>1</sup>	Clinical Pathologist <sup>1</sup>
	MFM <sup>1**</sup>	Clinical Radiologist <sup>1</sup>	Clinical Radiologist <sup>1</sup>	Clinical Radiologist <sup>1</sup>
	Lactation Consultant <sup>1</sup>	Critical Care <sup>1</sup>	Critical Care <sup>1</sup>	Critical Care <sup>1</sup>
		General Surgery <sup>1</sup>	General Surgery <sup>1</sup>	General Surgery <sup>1</sup>
		Infectious Disease <sup>1</sup>	Infectious Disease <sup>1</sup>	Infectious Disease <sup>1</sup>
		Urology <sup>1</sup>	Urology <sup>1</sup>	Urology <sup>1</sup>
		Hematology <sup>1</sup>	Hematology <sup>1</sup>	Hematology <sup>1</sup>
		Cardiology <sup>1</sup>	Cardiology <sup>1</sup>	Cardiology <sup>1</sup>
		Nephrology <sup>1</sup>	Nephrology <sup>1</sup>	Nephrology <sup>1</sup>
		Neurology <sup>1</sup>	Neurology <sup>1</sup>	Neurology <sup>1</sup>
		Neonatology <sup>1</sup>	Neonatology <sup>1</sup>	Neonatology <sup>1</sup>
		Pulmonology <sup>1</sup>	Pulmonology <sup>1</sup>	Pulmonology <sup>1</sup>
		Lactation Consultant <sup>1</sup>	Lactation Consultant <sup>1</sup>	Lactation Consultant <sup>1</sup>
		Nutritionist <sup>1</sup>	Nutritionist <sup>1</sup>	Nutritionist <sup>1</sup>
		Social Worker <sup>1</sup>	Social Worker <sup>1</sup>	Social Worker <sup>1</sup>
				Cardiothoracic Surgery <sup>1</sup>
				Gastroenterology <sup>1</sup>
				Endocrinology <sup>1</sup>
				Neurosurgery <sup>1</sup>

<sup>1</sup>physician shall be available in person on site as needed by the facility.

\*Anesthesia services shall be available 24 hours a day to provide labor analgesia and surgical anesthesia.

\*\*Licensed MFM shall be available for consultation onsite, by telephone, or by telemedicine, as needed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:2427 (November 2003), amended LR 33:284 (February 2007, amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 42:

**§9511. Neonatal Intensive Care**

A. ...

B. Levels of Care. There are five established neonatal levels of care units:

1. neonatal level I unit;
2. neonatal level II unit;
3. level III NICU unit;
4. level III surgical NICU; and
5. level IV NICU unit.

C. Each advanced level of care unit shall provide all services and meet the personnel requirements of the lower designated units, as applicable, i.e., a level III surgical unit must meet the requirements of the level I, II, and III units.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:2428 (November 2003), amended LR 33:286 (February 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 42:

**§9513. Neonatal Unit Functions**

A. Level I Neonatal Unit (Well Newborn Nursery)

1. ...

a. This unit shall have the capability for resuscitation and stabilization of all inborn neonates in accordance with Neonatal Resuscitation Program (NRP) guidelines. The unit shall stabilize unexpectedly small or sick neonates before transfer to the appropriate advanced level of care.

b. The unit shall stabilize and provide care for infants born at 35 weeks or greater gestation and who remain physiologically stable. The requirements for maternal transport at lesser gestations for transfer to a higher level of care shall be determined by the medical staff and approved by the hospital governing body.

c. This unit shall have the capability to stabilize newborns born at less than 35 weeks gestational age for transfer to higher level of care.

d. This unit shall maintain consultation and written transfer agreements with an approved Level II or III as appropriate.

e. This unit shall have a defined, secured nursery area with limited public access and/or secured rooming-in facilities with supervision of access.

f. Parent and/or sibling visitation/interaction with the neonate shall be provided.

g. The hospital shall have a data collection and retrieval system and shall report the required data to the appropriate departmental agency or section.

2. - 2.b. ...

c. Registered nurse to patient ratios may vary in accordance with patient needs. If couplet care or rooming-in is used, a registered nurse who is responsible for the mother shall coordinate and administer neonatal care. If direct assignment of the nurse is also made to the nursery to cover the newborn's care, there shall be double assignment (one nurse for the mother-neonate couplet and one for just the neonate if returned to the nursery). A registered nurse shall be available 24 hours a day, but only one may be necessary as most neonates will not be physically present in the nursery. Direct care of neonates in the nursery may be provided by ancillary personnel under the registered nurse's direct supervision. Adequate staff is needed to respond to acute and emergency situations.

#### B. Neonatal Level II Unit (Special Care Nursery)

##### 1. ...

a. This unit shall provide care for infants born at more than 32 weeks gestation and weighing more than 1,500 grams.

i. infants who have medical problems that are expected to resolve rapidly and are not anticipated to need emergent subspecialty services from a higher level NICU as determined by the attending medical staff.

b. This unit shall have the capability to provide mechanical ventilation and/or CPAP for a brief duration (less than 24 hours) for infants born at more than 32 weeks and weighing more than 1,500 grams.

c. Neonates requiring greater than 24 hours of continuous ventilator support shall be transferred to a higher-level neonatal intensive care facility.

d. This unit shall have the ability to stabilize infants born before 32 weeks gestation and/or weighing less than 1,500 grams until transfer to a higher level neonatal intensive care facility.

e. Neonates requiring transfer to a higher-level neonatal intensive care facility may be returned to a level II unit for convalescence.

##### 2. Personnel Requirements

a. A board-certified neonatologist shall be the chief of service.

NOTE: This unit shall have continuously available medical staff defined as available 24 hours per day/7 days per week/365 days per year on call for consultation as defined by medical staff bylaws.

b. Registered nurse to patient ratios may vary in accordance with patient needs.

c. This unit shall have at least one full-time social worker to be available as needed to assist with the socioeconomic and psychosocial problems of high-risk mothers, sick neonates, and their families.

d. This unit shall have at least one occupational or physical therapist to be available as needed to assist with the care of the newborn.

e. This unit shall have at least one registered dietitian/nutritionist to be available as needed who can plan diets as required to meet the special needs of mothers and high-risk neonates.

f. This unit shall have staff available 24 hours per day who have the demonstrated knowledge, skills, abilities and training to provide the care and services to infants in this unit, such as but not limited to:

i. nurses;

- ii. respiratory therapists;
- iii. radiology technicians; and
- iv. laboratory technicians.

#### 3. Equipment Requirements

a. This unit shall have hospital based equipment to provide care to infants available 24 hours per day, such as but not limited to:

- i. portable x-ray machine;
- ii. blood gas analyzer.

#### C. - C.1. ...

a. There shall be a written neonatal transport agreement with an approved level III surgical unit or level IV unit.

b. This unit shall have either a neonatologist or a neonatal nurse practitioner or a neonatology fellow in-house 24 hours per day.

c. The staffing of this unit shall be based on patient acuity and consistent with the recommended staffing guidelines of the 2014 edition of the *AAP Guidelines for Perinatal Care*. For medical sub-specialty requirements, refer to Table 1 - Neonatal Medical Subspecialties and Transport Requirements.

NOTE: All provisions of level III NICUs are required of level IIIS and IV NICUs.

#### 2. ...

a. The chief of service of a level III NICU shall be a board-certified neonatologist.

i. - ii. Repealed.

Exception: In 1995, those physicians in existing units who were designated as the chief of service of the unit and who were not neonatal or perinatal board-certified, were granted a waiver by written application to the Office of the Secretary, Department of Health and Hospitals. This waiver shall be maintained as it applies only to the hospital where that chief of service's position is held. The physician cannot relocate to another hospital nor can the hospital replace the chief of service for whom the exception was granted and retain the exception.

b. This unit shall have at least one full-time social worker available as needed who has experience with the socioeconomic and psychosocial problems of high-risk mothers and fetuses, sick neonates, and their families. For units with greater than thirty patients, the social worker staffing ratios shall be at least one social worker to thirty patients (additional social workers may be required in accordance with hospital staffing guidelines).

c. This unit shall have at least one occupational or physical therapist available as needed with neonatal expertise and at least one individual skilled in evaluation and management of neonatal feeding and swallowing disorders (e.g., speech-language pathologist).

d. This unit shall have at least one registered dietitian/nutritionist available as needed who has training or experience in perinatal nutrition and can plan diets that meet the special needs of high-risk mothers and neonates.

e. Delivery of safe and effective perinatal nursing care requires this unit to have qualified registered nurses in adequate numbers to meet the nursing needs of each patient. To meet the nursing needs of this unit, hospitals shall develop and adhere to an acuity based classification system based on nationally recognized staffing guidelines and have documentation available on such guidelines.

f. This unit shall have the following support personnel immediately available as needed to be on-site in the hospital, including but not limited to,

i. licensed respiratory therapists or registered nurses with specialized training who can supervise the assisted ventilation of neonates with cardiopulmonary disease.

3. Equipment Requirements

a. This unit shall have the following support equipment, in sufficient number, immediately available as needed in the hospital that includes but is not limited to,

i. advanced imaging with interpretation on an urgent basis (computed tomography, ultrasound, MRI and echocardiography); and

ii. a full range of respiratory support that includes conventional and/or high frequency ventilation and inhaled nitric oxide.

4. Transport

a. It is optional for level III NICUs to provide transports. If the unit performs transports, the unit shall have a qualified transport team and provide for and coordinate neonatal transport with level I and level II units throughout the state.

b. Transport shall be in accordance with national standards as published by the American Academy of Pediatrics' section on neonatal and pediatric transport and in accordance with applicable Louisiana statutes.

5. Quality Improvement Collaborative

a. Facilities with level III NICUs and above shall participate in a quality improvement collaborative and a database selected by the Medicaid Quality Committee, Neonatology sub-committee.

b. Proof of current participation by the facility will be available from the Louisiana DHH Website.

D. Level III Surgical NICU

1. General Provisions

a. This unit shall have a transport team and provide for and coordinate neonatal transport with level I, level II units and level III NICUs throughout the state as requested. Transport shall be in accordance with national standards as published by the American Academy of Pediatrics' Section on neonatal and pediatric transport and in accordance with applicable Louisiana statutes.

b. - c. Repealed.

NOTE: All provisions of level III NICUs are required of level IIIS and IV NICUs.

2. ...

a. For medical sub-specialty requirements refer to Table 1 - Neonatal Medical Subspecialties and Transport Requirements.

2.b. - 2.d.xii. Repealed.

E. Level IV NICU

1. General Provisions

a. This unit shall be located within an institution with the capability to provide surgical repair of complex conditions (e.g. congenital cardiac malformations that require cardiopulmonary bypass with or without extracorporeal membrane oxygenation).

2. Personnel Requirements

a. for medical sub-specialty requirements, refer to Table 1 - Neonatal Medical Subspecialties and Transport Requirements.

NOTE: All provisions of level IIIS NICUs are required of level IV NICUs.

b. Neonatal Medical Subspecialties and Transport Requirements

Table 1 - Neonatal Medical Subspecialties and Transport Requirements				
Text denoted with asterisks (*) indicates physician shall be available in person on site as needed by the facility. Each higher level NICU unit shall meet the requirements of each lower level NICU unit.				
Level I (Well Nursery)	Level II	Level III	Level IIIS	Level IV
Board Certified/Eligible Pediatric or Family Practice Physician	Board Certified/Eligible Pediatric or Family Practice Physician	Pediatric Cardiology <sup>1</sup>	Pediatric Surgery <sup>4</sup>	Pediatric Surgery <sup>4</sup>
	Board Certified Neonatologist	Ophthalmology <sup>2</sup>	Pediatric Anesthesiology <sup>5</sup>	Pediatric Anesthesiology <sup>5</sup>
	Social Worker	Pediatric Neurology <sup>3</sup>	Neonatal Transport	Neonatal Transport
	Occupational Therapist	Social Worker Ratio 1:30	Ophthalmology <sup>2*</sup>	Ophthalmology <sup>2*</sup>
	Physical Therapist	OT or PT/neonatal expertise	Pediatric Cardiology*	Pediatric Cardiology*
	Respiratory Therapists	RD/training in perinatal nutrition	Pediatric Gastroenterology*	Pediatric Cardiothoracic Surgery*
	Registered dietician/nutritionist	RT/training in neonate ventilation	Pediatric Infectious Disease*	Pediatric Endocrinology*
	Laboratory Technicians	Neonatal feeding/swallowing-SLP/ST	Pediatric Nephrology*	Pediatric Gastroenterology*
	Radiology Technicians		Pediatric Neurology <sup>3*</sup>	Pediatric Genetics*
			Pediatric Neurosurgery*	Pediatric Hematology-Oncology*
			Pediatric Orthopedic Surgery*	Pediatric Infectious Disease*
			Pediatric Otolaryngology <sup>6*</sup>	Pediatric Nephrology*
			Pediatric Pulmonology*	Pediatric Neurology <sup>3*</sup>

Table 1 - Neonatal Medical Subspecialties and Transport Requirements				
Text denoted with asterisks (*) indicates physician shall be available in person on site as needed by the facility. Each higher level NICU unit shall meet the requirements of each lower level NICU unit.				
Level I (Well Nursery)	Level II	Level III	Level IIIS	Level IV
				Pediatric Neurosurgery
				Pediatric Orthopedic Surgery
				Pediatric Otolaryngology <sup>7*</sup>
				Pediatric Pulmonology*
				Pediatric Radiology*
				Pediatric Urologic Surgery*
For specialties listed above staff shall be board eligible or board certified in their respective fields with the exception of otolaryngology as this field has not yet pursued certification.				

**Transport Note:**

Transport shall be in accordance with national standards as published by the American Academy of Pediatrics' Section on neonatal and pediatric transport and in accordance with applicable Louisiana statutes.

<sup>1</sup>There shall be at least one board certified or board eligible pediatric cardiologist as a member of medical staff. For Level III facilities, staff using telemedicine shall be continuously available.

<sup>2</sup>There shall be at least one board certified or board eligible ophthalmologist with sufficient knowledge and experience in retinopathy or prematurity as a member of the medical staff. An organized program for monitoring retinotherapy of prematurity shall be readily available in Level III and for treatment and follow-up of these patients in Level IIIS and IV facilities.

<sup>3</sup>Level III facilities shall be able to perform electroencephalogram and cranial ultrasounds and have the ability to have them interpreted by someone with experience in neonatal electroencephalograms and neonatal cranial ultrasounds. There shall be at least one board certified or board eligible pediatric neurologist as a member of medical staff.

<sup>4</sup>For pediatric surgery, the expectation is that there is a board certified or eligible pediatric surgeon who is continuously available to operate at that facility.

<sup>5</sup>There shall be at least one board certified or board eligible pediatric anesthesiologist as a member of the medical staff.

<sup>6</sup>Board eligible or certified in Otolaryngology; special interest in Pediatric Otolaryngology or completion of Pediatric Otolaryngology Fellowship.

<sup>7</sup>Board eligible or certified in Otolaryngology; completion of Pediatric Otolaryngology Fellowship.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 40:2100-2115.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:2429 (November 2003), amended LR 33:286 (February 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 42:

**§9515. Additional Support Requirements**

A. A bioethics committee shall be available for consultation with care providers at all times.

B. - Table 2.1. Repealed.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 40:2100-2115.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:2429 (November 2003), amended LR 33:288 (February 2007, amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 42:

**Family Impact Statement**

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have a positive impact on family functioning, stability or autonomy as described in R.S. 49:972 by ensuring the safe operation of hospitals that provide obstetrical and newborn services as a means of reducing infant mortalities.

**Poverty Impact Statement**

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on child, individual, or family poverty in relation to individual or community asset development as described in R.S. 49:973.

**Provider Impact Statement**

In compliance with House Concurrent Resolution (HCR) 170 of the 2014 Regular Session of the Louisiana Legislature, the provider impact of this proposed Rule has been considered. It is anticipated that this proposed Rule may have an adverse impact on the staffing level requirements or qualifications required to provide the same level of service and may increase direct or indirect cost to the provider to provide the same level of service. This proposed Rule may negatively impact the provider's ability to provide the same level of service as described in HCR 170.

**Public Comments**

Interested persons may submit written comments to Cecile Castello, Health Standards Section, P.O. Box 3767, Baton Rouge, LA 70821 or by email to MedicaidPolicy@la.gov. Ms. Castello is responsible for responding to inquiries regarding this proposed Rule. The deadline for receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

**Public Hearing**

A public hearing on this proposed Rule is scheduled for Thursday, April 28, 2016 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing.

Rebekah E. Gee MD, MPH  
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: Hospital Licensing Standards  
Obstetrical and Newborn Services**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO  
STATE OR LOCAL GOVERNMENT UNITS (Summary)**

It is anticipated that the implementation of this proposed rule will have no programmatic fiscal impact to the state other than the cost of promulgation for FY 15-16. It is anticipated that \$3,132(SGF) will be expended in FY 15-16 for the state's administrative expense for the promulgation of this proposed rule and the final rule.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE  
OR LOCAL GOVERNMENTAL UNITS (Summary)**

It is anticipated that the implementation of this proposed rule will not affect federal revenue collections since the licensing fees, in the same amounts, will continue to be collected.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO  
DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL  
GROUPS (Summary)**

This proposed Rule amends the provisions governing hospital licensing standards in order to align these provisions with current standards of practice and staffing requirements. It is anticipated that the implementation of this proposed rule may have economic costs to hospitals in FY 15-16, FY 16-17, and FY 17-18 to meet the new licensing and staffing requirements.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT  
(Summary)**

This rule has no known effect on competition and employment.

Jen Steele  
Interim Medicaid Director  
1603#066

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Department of Health and Hospitals  
Bureau of Health Services Financing**

Medicaid Eligibility  
Asset Verification Program  
(LAC 50:III.Chapter 3)

The Department of Health and Hospitals, Bureau of Health Services Financing proposes to adopt LAC 50:III.Chapter 3 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

Section 7001(d) of the Supplemental Appropriations Act of 2008 (P.L. 110-252) created a new §1940 of the Social Security Act which requires states to implement an asset verification program (AVP) to verify the assets of aged, blind or disabled applicants for, and recipients of, Medicaid benefits. Section 1940 also directed the design of an implementation schedule that would result in specific percentage goals outlined in the statute being met. The U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), recently directed the submission of a Medicaid State Plan amendment (SPA) to ensure the implementation of an AVP in Louisiana.

In compliance with the provisions of §7001(d) of the Supplemental Appropriations Act and §1940 of the Social Security Act, the Department of Health and Hospitals, Bureau of Health Services Financing proposes to adopt provisions to establish a Medicaid AVP to verify the assets of aged, blind or disabled applicants for, and recipients of, Medicaid benefits. This proposed Rule will also satisfy federal public notice requirements associated with the submission of the corresponding SPA.

**Title 50**

**PUBLIC HEALTH—MEDICAL ASSISTANCE**

**Part III. Eligibility**

**Subpart 1. General Administration**

**Chapter 3. Asset Verification Program**

**§301. General Provisions**

A. Pursuant to §7001(d) of the Supplemental Appropriations Act of 2008 (P.L. 110-252) and §1940 of the Social Security Act, the department hereby establishes provisions to implement an asset verification program (AVP) for Louisiana Medicaid.

B. The department will provide for the verification of assets for the purposes of determining or redetermining (renewing) Medicaid eligibility for aged, blind and disabled Medicaid applicants and recipients of Medicaid using an asset verification system (AVS) which meets the following requirements.

1. The request and response system will be an electronic system and meet the following criteria.

a. Verification inquiries will be sent electronically via the internet or similar means from Medicaid to the financial institution (FI).

b. The system will not be based on mailing paper-based requests.

c. The system will have the capability to accept responses electronically.

C. The system will be secure, based on a recognized industry standard of security.

D. The system will establish and maintain a database of the FIs that will participate in the department's AVS as mandated by federal requirements.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 42:

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), if it is determined that submission to CMS for review and approval is required.

**Family Impact Statement**

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have no impact on family functioning, stability or autonomy as described in R.S. 49:972.

**Poverty Impact Statement**

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on child, individual, or family poverty in relation to individual or community asset development as described in R.S. 49:973.

### Provider Impact Statement

In compliance with House Concurrent Resolution (HCR) 170 of the 2014 Regular Session of the Louisiana Legislature, the provider impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on the staffing level requirements or qualifications required to provide the same level of service, no direct or indirect cost to the provider to provide the same level of service, and will have no impact on the provider's ability to provide the same level of service as described in HCR 170.

### Public Comments

Interested persons may submit written comments to Jen Steele, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030 or by email to MedicaidPolicy@la.gov. Ms. Steele is responsible for responding to inquiries regarding this proposed Rule. The deadline for receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

### Public Hearing

A public hearing on this proposed Rule is scheduled for Thursday, April 28, 2016 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing.

Rebekah E. Gee MD, MPH  
Secretary

### FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Medicaid Eligibility Asset Verification Program

#### I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that implementation of this proposed rule will have no programmatic fiscal impact in Medical Vendor Payments, other than the cost of promulgation for FY 15-16, but is anticipated to increase Medicaid administrative costs by an indeterminable amount. It is anticipated that \$540 (\$270 SGF and \$270 FED) will be expended in FY 15-16 for the state's administrative expense for promulgation of this proposed rule and the final rule.

#### II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that the implementation of this proposed Rule will increase revenue collections for the federal share of the promulgation costs for FY 15-16 and for Medicaid administrative costs by an indeterminable amount. It is anticipated that \$270 will be collected in FY 15-16 for the federal share of the expense for promulgation of this proposed rule and the final rule.

#### III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This proposed Rule adopts provisions to establish a Medicaid asset verification process to verify the assets of aged, blind or disabled applicants for, and recipients of, Medicaid benefits. The proposed Rule will serve to establish the internal procedures for verifying assets, but will not have a direct impact on Medicaid enrollment or eligibility. It is anticipated that implementation of this proposed rule will have no

programmatic costs to the Medicaid Program for FY 15-16, FY 16-17 and FY 17-18.

#### IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule has no known effect on competition and employment.

Jen Steele  
Interim Medicaid Director  
1603#067

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office

### NOTICE OF INTENT

#### Department of Health and Hospitals Bureau of Health Services Financing

Medicaid Eligibility  
Recipient Appeals and Fair Hearing Requests  
(LAC 50:III.101)

The Department of Health and Hospitals, Bureau of Health Services Financing proposes to repeal and replace the provisions of Section T-100 of the *Medicaid Eligibility Manual* governing fair hearings which was promulgated in the May 20, 1996 Rule, and to adopt LAC 50:III.101 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing promulgated the *Medicaid Eligibility Manual* in its entirety by reference in May 1996, including Section T-100 addressing fair hearings (*Louisiana Register*, Volume 23, Number 5). The provisions governing recipient appeals and fair hearings was also incorporated into the Medicaid State Plan. The department has now determined that these provisions are outdated and require revisions to ensure that the provisions are consistent with current Medicaid Program operations. This proposed Rule will also satisfy public notice requirements in order to submit a corresponding amendment to the Medicaid State Plan to make the necessary updates.

Therefore, the department proposes to repeal and replace the provisions of Section T-100 of the *Medicaid Eligibility Manual* governing fair hearings in order to repromulgate these provisions in a clear and concise manner for inclusion in the *Louisiana Administrative Code* in Title 50, Part III governing Medicaid eligibility, and to meet the technical requirements for submission of a corresponding Medicaid State Plan amendment.

### Title 50

#### PUBLIC HEALTH—MEDICAL ASSISTANCE

##### Part III. Eligibility

##### Subpart 1. General Administration

##### Chapter 1. General Provisions

##### §101. Fair Hearings

A. Every applicant for, and enrollee of, Medicaid Program benefits has the right to appeal an agency action or decision, and has the right to request a fair hearing in the presence of an impartial hearing officer.

1. *Action*—a termination, suspension or reduction of Medicaid eligibility or covered services. This includes



terminations by skilled nursing facilities and nursing facilities to transfer or discharge residents and adverse determinations made by a State (Medicaid Program) with regard to the preadmission screening and annual resident review requirements of §1917(e)(7) of the Social Security Act.

2. Exception. Enrollees are not entitled to a fair hearing if the sole issue is a federal or state law requiring an automatic change adversely affecting some or all Medicaid recipients.

2. Applicants and enrollees shall be informed in writing of the right to request a fair hearing and of the procedure to do so.

B. The Medicaid Program may delegate the responsibility for conducting fair hearings to another state agency. Any agency with delegated authority to conduct fair hearings on behalf of the Medicaid Program shall comply with the federal notice and fair hearing requirements pursuant to 42 CFR 431, Subpart E, and all other Medicaid Program and state regulations governing fair hearings.

C. Applicants and enrollees must request a fair hearing within 30 days of the date of the adequate and/or timely decision notice issued by the Medicaid Program or its designee.

D. Maintenance of services pending a fair hearing request

1. If the Medicaid Program sends a notice to the recipient as required under 42 CFR 431.211 or §431.214, and the recipient requests a hearing before the date of action, the recipient's services will not be terminated or reduced by the Medicaid Program until a decision is rendered after the hearing unless:

a. it is determined at the hearing that the sole issue is one of federal or state law or policy; and

b. the recipient is promptly informed by Medicaid, in writing, that the services are to be terminated or reduced pending the hearing decision.

2. If the Medicaid Program's action is sustained by the hearing decision, recovery procedures may be instituted against the applicant/recipient to recoup the cost of any services furnished, to the extent they were furnished solely by reason of this §101.D.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 42:

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), if it is determined that submission to CMS for review and approval is required.

#### **Family Impact Statement**

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have no impact on family functioning, stability or autonomy as described in R.S. 49:972.

#### **Poverty Impact Statement**

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on child, individual, or

family poverty in relation to individual or community asset development as described in R.S. 49:973.

#### **Provider Impact Statement**

In compliance with House Concurrent Resolution (HCR) 170 of the 2014 Regular Session of the Louisiana Legislature, the provider impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on the staffing level requirements or qualifications required to provide the same level of service, no direct or indirect cost to the provider to provide the same level of service, and will have no impact on the provider's ability to provide the same level of service as described in HCR 170.

#### **Public Comments**

Interested persons may submit written comments to Jen Steele, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821—9030 or by email to MedicaidPolicy@la.gov. Ms. Steele is responsible for responding to inquiries regarding this proposed Rule.

#### **Public Hearing**

A public hearing on this proposed Rule is scheduled for Thursday, April 28, 2016 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Rebekah E. Gee MD, MPH  
Secretary

#### **FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Medicaid Eligibility Recipient Appeals and Fair Hearing Requests**

##### **I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

It is anticipated that implementation of this proposed rule will have no programmatic fiscal impact to the state other than the cost of promulgation for FY 15-16. It is anticipated that \$540(\$270 SGF and \$270 FED) will be expended in FY 14-15 for the state's administrative expense for promulgation of this proposed rule and the final rule.

##### **II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

It is anticipated that the implementation of this proposed rule will not affect revenue collections other than the federal share of the promulgation costs for FY 15-16. It is anticipated that \$270 will be collected in FY 15-16 for the federal share of the expense for promulgation of this proposed rule and the final rule.

##### **III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

This proposed Rule proposes to repeal and replace the provisions governing recipient appeals and fair hearings in the May 20, 1996 Rule in order to update the provisions to be consistent with current operations, and to repromulgate the provisions in a clear and concise manner for inclusion in the Louisiana Administrative Code. It is anticipated that implementation of this proposed rule will have no economic cost or benefit to the Medicaid Program for FY 15-16, FY 16-17 and FY 17-18.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT  
(Summary)

This rule has no known effect on competition and employment.

Jen Steele  
Interim Medicaid Director  
1603#068

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Department of Health and Hospitals  
Emergency Response Network**

LERN Destination Protocol: TRAUMA (LAC 48:I.19121)

Notice is hereby given that the Louisiana Emergency Response Network Board has exercised the provisions of R.S. 49:950 et seq., the Administrative Procedure Act, and intends to codify in LAC 48:I.Chapter 191, Section 19121, a protocol adopted and promulgated on December 10, 2015, by the Louisiana Emergency Response Network Board for the transport of trauma and time sensitive ill patients, adopted as authorized by R.S. 9:2798.5 (to replace the protocol adopted on November 10, 2014, codified in LAC 41:950 (May 20, 2014) as LAC 48:I.Chapter 191, Section 19119).

**Title 48**

**PUBLIC HEALTH—GENERAL**

**Part I. General Administration**

**Subpart 15. Emergency Response Network**

**Chapter 191. Trauma Protocols**

**§19121. LERN Destination Protocol: TRAUMA**

A. A. On December 10, 2015, the Louisiana Emergency Response Network Board [R.S. 40:2842(1) and (3)] adopted and promulgated “LERN Destination Protocol: TRAUMA”, which replaces the “LERN Destination Protocol: TRAUMA” found in §19121 adopted and promulgated November 20, 2014, as follows.

1. Call LERN Communication Center at (866) 320-8293 for patients meeting the following criteria.

<ul style="list-style-type: none"> <li>Unmanageable airway</li> <li>Tension pneumothorax</li> <li>Traumatic cardiac arrest</li> <li>Burn patient without patent airway</li> <li>Burn patient &gt; 40 percent BSA without IV</li> </ul>	Yes→	Closest ED/Trauma Center
No ↓		
Measure vital signs and level of consciousness		
<ul style="list-style-type: none"> <li>GCS ≤13</li> <li>SBP &lt;90mmHg</li> <li>RR &lt;10 or &gt;29 breaths per minute, or need for ventilator Support (&lt;20 in infant aged &lt;1 year)</li> </ul>	Yes→	<p><b>Transport to Trauma Center/ Trauma Program</b> These patients should be transported to the highest level of care within the defined trauma system. This is a Level 1 or a Level 2 Trauma Center or Trauma Program.</p> <p><i>* If distance or patient condition impedes transport to trauma facility, consider transport to most appropriate resourced hospital.</i></p>

No ↓		
Assess anatomy of injury		
<ul style="list-style-type: none"> <li>All penetrating injuries to head, neck, torso, and extremities proximal to elbow or knee</li> <li>Chest wall instability or deformity (e.g. flail chest)</li> <li>Two or more proximal long-bone fractures</li> <li>Crushed, degloved, mangled, or pulseless extremity</li> <li>Amputation proximal to wrist or ankle</li> <li>Pelvic fractures</li> <li>Open or depressed skull fracture</li> <li>Paralysis</li> <li>Fractures with neurovascular compromise (decreased peripheral pulses or prolonged capillary refill, motor or sensory deficits distal to fracture)</li> </ul>	Yes→	<p>Transport to Trauma Center/ Trauma Program These patients should be transported to the highest level of care within the defined trauma system. This is a Level 1 or a Level 2 Trauma Center or Trauma Program.</p> <p><i>* If distance or patient condition impedes transport to trauma facility, consider transport to most appropriate resourced hospital.</i></p>
No ↓		
Assess mechanism of injury and evidence of high-energy impact		
<ul style="list-style-type: none"> <li>Falls <ul style="list-style-type: none"> <li>Adults: &gt;20 feet (one story is equal to 10 feet)</li> <li>Children: &gt;10 feet or two or three times the height of the child</li> </ul> </li> <li>High-risk auto crash <ul style="list-style-type: none"> <li>Intrusion, including roof: &gt; 12 inches occupant site; &gt; 18 inches any site</li> <li>Ejection (partial or complete) from automobile</li> <li>Death in the same passenger compartment</li> <li>Vehicle telemetry data consistent with a high risk of injury</li> </ul> </li> <li>Auto vs. pedestrian/bicyclist/ATV thrown, run over, or with significant (&gt;20 mph) impact</li> <li>Motorcycle crash &gt;20mph</li> </ul>	Yes→	<p><b>Transport to Trauma Center/Trauma Program</b> which, depending upon the defined trauma system, need not be the highest level trauma center/program. If no Trauma Center/Trauma Program in the region, LCC may route to the most appropriate resourced hospital.</p>
No ↓		
Assess special patient or system considerations		
<ul style="list-style-type: none"> <li>Older Adults <ul style="list-style-type: none"> <li>Risk of injury/death increases after age 55 years</li> <li>SBP &lt;110 may represent shock after age 65</li> <li>Low impact mechanisms (e.g. ground level falls) may result in severe injury</li> </ul> </li> <li>Children <ul style="list-style-type: none"> <li>Should be triaged preferentially to pediatric capable trauma centers</li> </ul> </li> <li>Anticoagulants and bleeding disorders <ul style="list-style-type: none"> <li>Patients with head injury</li> </ul> </li> </ul>	Yes→	<p><b>Transport to Trauma Center/Trauma Program</b> or hospital capable of timely and thorough evaluation and initial management of potentially serious injuries. Consider consultation with medical control.</p>

are at high risk for rapid deterioration		
<ul style="list-style-type: none"> <li>• Burns <ul style="list-style-type: none"> <li>- With trauma mechanism: triage to trauma center</li> </ul> </li> <li>• Pregnancy &gt;20 weeks</li> <li>• Hip Fractures (hip tenderness, deformity, lateral deviation of foot) excluding isolated hip fractures from same level falls</li> <li>• Major joint dislocations (hip, knee, ankle, elbow)</li> <li>• Open Fractures</li> <li>• EMS provider judgment</li> </ul>		
No ↓		
Multi/Mass Casualty Incident	No→	Transport according to protocol

2. When in doubt, transport to a trauma center.

B. This protocol was published at LR 42:169 (January 2016).

AUTHORITY NOTE: Promulgated in accordance with R.S. 9:2798.5 and R.S. 40:2846(A).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Emergency Response Network, LR 42:

#### Family Impact Statement

1. What effect will these rules have on the stability of the family? The proposed Rule will not affect the stability of the family.
2. What effect will this have on the authority and rights of persons regarding the education and supervision of their children? The proposed Rule will not affect the authority and rights of persons regarding the education and supervision of their children.
3. What effect will this have on the functioning of the family? This Rule will not affect the functioning of the family.
4. What effect will this have on family earnings and family budget? This Rule will not affect the family earnings or family budget.
5. What effect will this have on the behavior and personal responsibility of children? This Rule will not affect the behavior or personal responsibility of children.
6. Is the family or local government able to perform the function as contained in this proposed Rule? No, the proposed Rule will have no impact.

#### Poverty Impact Statement

The proposed rulemaking will have no impact on poverty as described in R.S. 49:973.

#### Small Business Analysis

The impact of the proposed amendment to Section 9119 of the Rule on small business has been considered and it is estimated that the proposed action is not expected to have a significant adverse impact on small business as defined in the Regulatory Flexibility Act. The agency, consistent with health, safety, environmental and economic welfare factors has considered and, where possible, utilized regulatory methods in the drafting of the proposed Rule that will accomplish the objectives of applicable statutes while minimizing the adverse impact of the proposed Rule on small business.

#### Provider Impact Statement

In compliance with House Concurrent Resolution (HCR) 170 of the 2014 Regular Session of the Louisiana Legislature, the provider impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on the staffing level requirements or qualifications required to provide the same level of service, and no increase on direct or indirect cost. The proposed Rule will have no impact on the provider's ability to provide the same level of service as described in HCR 170.

#### Public Comments

Interested persons may submit written comments relative to the proposed Rule until 4:30 p.m., Monday, April 11, 2016 to Paige Hargrove, Louisiana Emergency Response Network, 14141 Airline Hwy., Suite B, Building 1, Baton Rouge, LA 70817, or via email to [paige.hargrove@la.gov](mailto:paige.hargrove@la.gov).

Paige Hargrove  
Executive Director

### FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

#### RULE TITLE: LERN Destination Protocol: TRAUMA

#### I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

This proposed rule adopts Louisiana Administrative Code (LAC) Title 48—Public Health General, Part I—General Administration, Subpart 15 – Louisiana Emergency Response Network Board, Chapter 191 – Trauma Protocols, Section 19119 – Destination Protocol: TRAUMA. The Louisiana Emergency Response Network (LERN) Board is authorized to adopt protocols for the transport of trauma and time sensitive ill patients.

Since 2009, the LERN Board has previously adopted protocols for trauma patients that were published in the Potpourri Section (announcements and various information that will never become part of the LAC) of the *State Register*. On December 10, 2015, the LERN Board revised and adopted "Destination Protocol: TRAUMA", to be effective January 1, 2016, that replaced the previous trauma destination protocol adopted and promulgated November 20, 2014. The revised destination protocol aligns closely with the federal CDC Guidelines for Field Triage of Injured Patients and continues to recognize Regional Trauma Programs as part of the destination for trauma patients. The revised trauma destination protocol will be published in the Potpourri Section of the *State Register* for January 20, 2016. This proposed rule codifies the revised trauma destination protocol in Section 19119; which is the latest trauma protocol adopted by the Louisiana Emergency Response Network Board.

Other than the cost to publish in the *State Register*, which is estimated to be \$693 in FY 16, it is not anticipated that the proposed rule will result in any material costs or savings to LERN or any state or local governmental unit.

#### II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no anticipated effect on revenue collections of state or local governmental units as a result of this proposed rule change.

#### III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There are no estimated costs and/or economic benefits to directly affected persons or non-governmental groups. The

proposed rule is simply a codification of protocols as authorized by La. R.S. 9:2798.5A.

#### IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule establishes a destination protocol for patients with specific injuries. The trauma system is a voluntary system. This rule does not prevent or restrict any hospital from pursuing a trauma center designation or restrict any hospital from developing a trauma program. There is no effect on employment.

Paige Hargrove  
Executive Director  
1603#015

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office

### NOTICE OF INTENT

#### Department of Public Safety and Corrections Board of Private Investigator Examiners

Continuing Education (LAC 46:LVII.518 and 519)

Notice is hereby given that the Board of Private Investigator Examiners, in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., and relative to the authority granted to it to adopt, amend or repeal rules provided by R.S. 37:3505, and to prescribe and adopt regulations governing the manner and conditions under which credit shall be given by the board for participation in professional education, proposes to amend Chapter 5 of LAC 46:LVII.

The Board of Private Investigator Examiners proposes to amend LAC 46:LVII.518, Continuing Education, and LAC 46:LVII.519, Continuing Education Credits, to provide that the board will make available to licensees a mandatory continuing education course, which will be offered by the board free of charge. The purpose of the amendment is to regulate the continuing education received by the licensees, to ensure that licensees have formal opportunities to upgrade and update professional knowledge and skills, and for licensees to have an opportunity to learn of changes in the law that may affect them or the practice act for private investigators in Louisiana.

#### Title 46

#### PROFESSIONAL AND OCCUPATIONAL STANDARDS

#### Part LVII. Private Investigator Examiners

#### Chapter 5. Application, Licensing, Training, Registration and Fees

#### §518. Continuing Education

A. Each licensed private investigator shall be required to complete and pass an on-line investigative educational instruction course designed and approved by the LSBPIE every two years in order to qualify for a license renewal. The approved on-line investigative educational instruction course will be available free of charge at the LSBPIE website.

1. A licensed private investigator that completed and passed the approved on-line investigative educational instruction course in connection with a license renewal in the year 2016 shall complete and pass the approved on-line investigative educational instruction course prior to the

license renewal date in the year 2018. Thereafter, the approved on-line investigative educational instruction course must be completed and passed biennially prior to the license renewal date in even numbered years.

2. A licensed private investigator that is in good standing but that did not complete and pass the approved on-line investigative educational instruction course in connection with a license renewal in the year 2016 (because the license is not subject to renewal until 2017) shall complete and pass the approved on-line investigative educational instruction course prior to the license renewal date in the year 2017. Thereafter, the approved on-line investigative educational instruction course must be completed and passed biennially prior to the license renewal date in odd numbered years.

3. A newly licensed private investigator that successfully completed a 40-hour training class shall complete and pass the approved on-line investigative educational instruction course prior to the licensee's second license renewal date. Thereafter, the approved on-line investigative educational instruction course must be completed and passed biennially prior to the license renewal date.

B. Each licensed private investigator is required to complete and return the LSBPIE continuing education course form that can be printed after the completion and passing of the approved on-line investigative educational instruction course with the request for license renewal each year. The test can be taken as many times as needed for a passing grade of 75 percent.

C. Any licensee who wishes to apply for an extension of time to complete the approved on-line investigative educational instruction course must submit a signed written request setting forth the reasons for the extension request to the executive director of the LSBPIE 30 days prior to the license renewal date. The training committee shall rule on each request. If an extension is granted, the investigator shall be granted 30 days, or additional time as the training committee determines is needed, to complete and pass the approved on-line investigative educational instruction.

D. The LSBPIE may suspend or waive the approved on-line investigative educational instruction course requirement for good cause shown.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3505(B)(1)(2).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Private Investigator Examiners, LR 22:371 (May 1996), amended LR 27:564 (April 2001), LR 27:1016 (July 2001), LR 28:855 (April 2002), LR 38:1596 (July 2012), LR 42:

#### §519. Continuing Education Credits

A. The standards set forth in §518 will govern continuing education for private investigators in Louisiana.

B. Nothing in this Section will prohibit a licensed private investigator from attending or taking a continuing education course provided by another party. The private investigator may forward that compliance form to the LSBPIE office and it will be placed in the private investigators file. However, the course(s) will not be a substitute for the required and approved on-line investigative educational instruction course.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 37:3505(B)(1)(2).

**HISTORICAL NOTE:** Promulgated by the Department of Public Safety and Corrections, Board of Private Investigator Examiners, LR 38:2378 (September 2012), amended LR 42:

#### **Family Impact Statement**

1. What effect will this Rule have on the stability of the family? The proposed Rule will not affect the stability of the family.

2. What effect will this have on the authority and rights of person regarding the education and supervision of their children? The proposed Rule will not affect the authority or rights of persons regarding the education and supervision of their children.

3. What effect will this have on the functioning of the family? This Rule will not affect the functioning of the family.

4. What effect will this have on family earnings and family budget? This Rule will not affect the family earnings or family budget.

5. What effect will this have on the behavior and personal responsibility of children? This Rule will not affect the behavior or personal responsibility of children.

6. Is the family or local government able to perform the function as contained in this proposed Rule? No, the action proposed is strictly a Board of Private Investigator Examiners enforcement function.

#### **Poverty Impact Statement**

It is anticipated that the proposed action will have no significant impact on:

1. household income, assets, and financial security;
2. early childhood or educational development;
3. employment and workforce development;
4. taxes and tax credits; or
5. child and dependent care, housing, health care, nutrition, transportation and utilities assistance.

#### **Small Business Analysis**

It is anticipated that the proposed Rule will not have a significant adverse impact on small businesses as defined in the Regulatory Flexibility Act. The agency, consistent with health, safety, environmental and economic factors has considered and, where possible, utilized regulatory methods in drafting the proposed Rule to accomplish the objectives of applicable statutes while minimizing any anticipated adverse impact on small businesses.

#### **Provider Impact Statement**

The proposed rulemaking will have no provider impact as described in HCR 170 of 2014.

#### **Public Comments**

Interested persons may submit written data, views, comments or arguments to Pat Englade, Executive Director, Board of Private Investigator Examiners, 7414 Perkins Rd., Suite 120, Baton Rouge, LA 70808. All comments must be submitted by 4:30 p.m., on April 15, 2016.

Pat Englade  
Executive Director

## **FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES**

### **RULE TITLE: Continuing Education**

#### **I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

The proposed rule change will increase annual expenditures that the Board anticipates will be absorbed within its current budget. The proposed rule amends continuing education requirements and provides that the Board will make a mandatory continuing education course available to licensees, which will be offered by the board free of charge.

The LSBPIE anticipates an increase in expenditures associated with professional services for an information technology expert to assist in the implementation of the online continuing education program at an estimated cost of \$500 annually. The LSBPIE anticipates using an online test-delivery service named ClassMarker to deliver continuing education exams to licensed private investigators. ClassMarker offers a free service for governmental entities, but has an extended level of service at a cost of \$20 per month or \$240 annually. As a result, the LSBPIE will incur nominal expenses to the extent the board determines the need for the extended service level.

The proposed rule will also result in an increase in monthly expenditures related to generating new forms and additional documentation associated with licensing private investigators. However, expenditures associated with the proposed rule will likely be nominal.

#### **II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

The proposed rule change will not effect revenue collections for state or local governmental units.

#### **III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

The proposed rule change will have an indeterminable impact on third party continuing education providers, as all private investigators licensees will no longer have to utilize their services to fulfill continuing education requirements. Third party continuing education providers will be affected to the extent private investigator licensees use the free continuing education course and do not seek additional continuing education courses. As a result, third party continuing education providers may see a loss in revenue related to private investigator licensees no longer paying for their services.

The proposed amendments making continuing education a free service will provide an economic benefit to licensees who are currently required to pay for continuing education course credits. The total economic benefit to licensees is unknown, as the costs of continuing education courses offered by third parties vary.

#### **IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

The proposed rule may have an effect on competition and employment for third party continuing education providers to the extent licensed private investigators forgo use of their services as a result of the LSBPIE offering complimentary continuing education.

Pat Englade  
Executive Director  
1603#039

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office

## NOTICE OF INTENT

### Department of State Business Services Division

Business Entities (LAC 19:V.Chapters 1 - 13)

The Secretary of State, pursuant to the provisions of the Administrative Procedure Act (R.S. 49:950 et seq.) and under the authority of R.S. 49:222 and R.S. 36:742, is proposing to adopt a Rule to authorize the use of an optional Secure Business Filings (SBF) service designed to discourage fraudulent business filings in Louisiana through geauxBIZ.

#### Title 19 CORPORATION AND BUSINESS

##### Part V. Secretary of State

##### Chapter 1. Domestic Corporations §100. Secure Business Filings Service

A. The Department of State has developed and now offers an optional Secure Business Filings (SBF) service designed to discourage fraudulent business filings in Louisiana. The service will notify a corporation via email whenever amendments are submitted on the corporation through geauxBIZ. The corporation will have the opportunity to review the filing and approve or reject further processing by the Department of State.

B. Any person who has a geauxBIZ account with a verified email address can enroll in the optional SBF service. The enrollment application must be authorized by a person who is a named officer, director, member, manager, or partner of record (the authorizing authority). The identity of the authorizing authority must be verified by completing a Secure Business Filing Service Enrollment Application Authorization which must be verified by a licensed notary public in the state where the authorizing authority resides. A copy of the authorization form can be found on the department's website. The authorization application is required for all SBF applicants, even if the applicant is the approval authority.

C. Business entities will have an opportunity to review the filing and approve or reject further processing by the Department of State. To approve a filing, the corporation must provide the PIN assigned to the corporation within five days of receiving notification of a pending file. If the corporation rejects a filing or if five days passes with no action performed, the filing will not be processed by the Department of State.

D. The corporation is responsible for PIN usage and security. The Department of State will not be responsible for unauthorized usage of the PIN or changes made to the corporation's business record as a result of an unauthorized user entering the correct PIN. The department reserves the right to cancel the SBF service, change the PIN, remove an SBF enrollee, change the SBF service terms and conditions, or act to prevent or prosecute fraudulent activity at any time.

E. The service has a one-time enrollment fee of \$35. An enrollment does not expire; however, it can be cancelled by the enrollee, by another authorized applicant, or by the Department of State. Enrollments are non-transferrable. A new SBF enrollment application must be completed to reinstate a cancelled enrollment or to change the SBF

enrollment to a different geauxBIZ user. Once the enrollment application is approved by the department, the department will provide the corporation with a personal identification number (PIN) that will be unique to the corporation. The corporation can give the PIN to any person filing amendments on the corporation's behalf.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:222 and R.S. 36:742.

HISTORICAL NOTE: Promulgated by the Department of State, Business Services Division, LR 42:

##### Chapter 5. Nonprofit Corporations §500. Secure Business Filings Service

A. The Department of State has developed and now offers an optional Secure Business Filings (SBF) service designed to discourage fraudulent business filings in Louisiana. The service will notify a corporation via email whenever amendments are submitted on the corporation through geauxBIZ. The corporation will have the opportunity to review the filing and approve or reject further processing by the Department of State.

B. Any person who has a geauxBIZ account with a verified email address can enroll in the optional SBF service. The enrollment application must be authorized by a person who is a named officer, director, member, manager, or partner of record (the authorizing authority). The identity of the authorizing authority must be verified by completing a Secure Business Filing Service Enrollment Application Authorization which must be verified by a licensed notary public in the state where the authorizing authority resides. A copy of the authorization form can be found on the department's website. The authorization application is required for all SBF applicants, even if the applicant is the approval authority.

C. Business entities will have an opportunity to review the filing and approve or reject further processing by the Department of State. To approve a filing, the corporation must provide the PIN assigned to the corporation within five days of receiving notification of a pending file. If the corporation rejects a filing or if five days passes with no action performed, the filing will not be processed by the Department of State.

D. The corporation is responsible for PIN usage and security. The Department of State will not be responsible for unauthorized usage of the PIN or changes made to the corporation's business record as a result of an unauthorized user entering the correct PIN. The department reserves the right to cancel the SBF service, change the PIN, remove an SBF enrollee, change the SBF service terms and conditions, or act to prevent or prosecute fraudulent activity at any time.

E. The service has a one-time enrollment fee of \$35. An enrollment does not expire; however, it can be cancelled by the enrollee, by another authorized applicant, or by the Department of State. Enrollments are non-transferrable. A new SBF enrollment application must be completed to reinstate a cancelled enrollment or to change the SBF enrollment to a different geauxBIZ user. Once the enrollment application is approved by the department, the department will provide the corporation with a personal identification number (PIN) that will be unique to the corporation. The corporation can give the PIN to any person filing amendments on the corporation's behalf.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:222 and R.S. 36:742.

HISTORICAL NOTE: Promulgated by the Department of State, Business Services Division, LR 42:

## **Chapter 7. Foreign Corporations**

### **§700. Secure Business Filings Service**

A. The Department of State has developed and now offers an optional Secure Business Filings (SBF) service designed to discourage fraudulent business filings in Louisiana. The service will notify a corporation via email whenever amendments are submitted on the corporation through geauxBIZ. The corporation will have the opportunity to review the filing and approve or reject further processing by the Department of State.

B. Any person who has a geauxBIZ account with a verified email address can enroll in the optional SBF service. The enrollment application must be authorized by a person who is a named officer, director, member, manager, or partner of record (the authorizing authority). The identity of the authorizing authority must be verified by completing a Secure Business Filing Service Enrollment Application Authorization which must be verified by a licensed notary public in the state where the authorizing authority resides. A copy of the authorization form can be found on the department's website. The authorization application is required for all SBF applicants, even if the applicant is the approval authority.

C. Business entities will have an opportunity to review the filing and approve or reject further processing by the Department of State. To approve a filing, the corporation must provide the PIN assigned to the corporation within five days of receiving notification of a pending file. If the corporation rejects a filing or if five days passes with no action performed, the filing will not be processed by the Department of State.

D. The corporation is responsible for PIN usage and security. The Department of State will not be responsible for unauthorized usage of the PIN or changes made to the corporation's business record as a result of an unauthorized user entering the correct PIN. The department reserves the right to cancel the SBF service, change the PIN, remove an SBF enrollee, change the SBF service terms and conditions, or act to prevent or prosecute fraudulent activity at any time.

E. The service has a one-time enrollment fee of \$35. An enrollment does not expire; however, it can be cancelled by the enrollee, by another authorized applicant, or by the Department of State. Enrollments are non-transferrable. A new SBF enrollment application must be completed to reinstate a cancelled enrollment or to change the SBF enrollment to a different geauxBIZ user. Once the enrollment application is approved by the department, the department will provide the corporation with a personal identification number (PIN) that will be unique to the corporation. The corporation can give the PIN to any person filing amendments on the corporation's behalf.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:222 and R.S. 36:742.

HISTORICAL NOTE: Promulgated by the Department of State, Business Services Division, LR 42:

## **Chapter 9. Special Corporations**

### **§900. Secure Business Filings Service**

A. The Department of State has developed and now offers an optional Secure Business Filings (SBF) service designed to discourage fraudulent business filings in Louisiana. The service will notify a corporation via email

whenever amendments are submitted on the corporation through geauxBIZ. The corporation will have the opportunity to review the filing and approve or reject further processing by the Department of State.

B. Any person who has a geauxBIZ account with a verified email address can enroll in the optional SBF service. The enrollment application must be authorized by a person who is a named officer, director, member, manager, or partner of record (the authorizing authority). The identity of the authorizing authority must be verified by completing a Secure Business Filing Service Enrollment Application Authorization which must be verified by a licensed notary public in the state where the authorizing authority resides. A copy of the authorization form can be found on the department's website. The authorization application is required for all SBF applicants, even if the applicant is the approval authority.

C. Business entities will have an opportunity to review the filing and approve or reject further processing by the Department of State. To approve a filing, the corporation must provide the PIN assigned to the corporation within five days of receiving notification of a pending file. If the corporation rejects a filing or if five days passes with no action performed, the filing will not be processed by the Department of State.

D. The corporation is responsible for PIN usage and security. The Department of State will not be responsible for unauthorized usage of the PIN or changes made to the corporation's business record as a result of an unauthorized user entering the correct PIN. The department reserves the right to cancel the SBF service, change the PIN, remove an SBF enrollee, change the SBF service terms and conditions, or act to prevent or prosecute fraudulent activity at any time.

E. The service has a one-time enrollment fee of \$35. An enrollment does not expire; however, it can be cancelled by the enrollee, by another authorized applicant, or by the Department of State. Enrollments are non-transferrable. A new SBF enrollment application must be completed to reinstate a cancelled enrollment or to change the SBF enrollment to a different geauxBIZ user. Once the enrollment application is approved by the department, the department will provide the corporation with a personal identification number (PIN) that will be unique to the corporation. The corporation can give the PIN to any person filing amendments on the corporation's behalf.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:222 and R.S. 36:742.

HISTORICAL NOTE: Promulgated by the Department of State, Business Services Division, LR 42:

## **Chapter 11. Limited Liability Companies**

### **§1100. Secure Business Filings Service**

A. The Department of State has developed and now offers an optional Secure Business Filings (SBF) service designed to discourage fraudulent business filings in Louisiana. The service will notify a limited liability company via email whenever amendments are submitted on the limited liability company through geauxBIZ. The limited liability company will have the opportunity to review the filing and approve or reject further processing by the Department of State.

B. Any person who has a geauxBIZ account with a verified email address can enroll in the optional SBF service. The enrollment application must be authorized by a person

who is a named officer, director, member, manager, or partner of record (the authorizing authority). The identity of the authorizing authority must be verified by completing a Secure Business Filing Service Enrollment Application Authorization which must be verified by a licensed notary public in the state where the authorizing authority resides. A copy of the authorization form can be found on the department's website. The authorization application is required for all SBF applicants, even if the applicant is the approval authority.

C. Business entities will have an opportunity to review the filing and approve or reject further processing by the Department of State. To approve a filing, the limited liability company must provide the PIN assigned to the limited liability company within five days of receiving notification of a pending file. If the limited liability company rejects a filing or if five days passes with no action performed, the filing will not be processed by the Department of State.

D. The limited liability company is responsible for PIN usage and security. The Department of State will not be responsible for unauthorized usage of the PIN or changes made to the limited liability company's business record as a result of an unauthorized user entering the correct PIN. The department reserves the right to cancel the SBF service, change the PIN, remove an SBF enrollee, change the SBF service terms and conditions, or act to prevent or prosecute fraudulent activity at any time.

E. The service has a one-time enrollment fee of \$35. An enrollment does not expire; however, it can be cancelled by the enrollee, by another authorized applicant, or by the Department of State. Enrollments are non-transferrable. A new SBF enrollment application must be completed to reinstate a cancelled enrollment or to change the SBF enrollment to a different geauxBIZ user. Once the enrollment application is approved by the department, the department will provide the limited liability company with a personal identification number (PIN) that will be unique to the limited liability company. The limited liability company can give the PIN to any person filing amendments on the limited liability company's behalf.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:222 and R.S. 36:742.

HISTORICAL NOTE: Promulgated by the Department of State, Business Services Division, LR 42:

### **Chapter 13. Partnerships**

#### **§1300. Secure Business Filings Service**

A. The Department of State has developed and now offers an optional Secure Business Filings (SBF) service designed to discourage fraudulent business filings in Louisiana. The service will notify a partnership via email whenever amendments are submitted on the partnership through geauxBIZ. The partnership will have the opportunity to review the filing and approve or reject further processing by the Department of State.

B. Any person who has a geauxBIZ account with a verified email address can enroll in the optional SBF service. The enrollment application must be authorized by a person who is a named officer, director, member, manager, or partner of record (the authorizing authority). The identity of the authorizing authority must be verified by completing a Secure Business Filing Service Enrollment Application Authorization which must be verified by a licensed notary public in the state where the authorizing authority resides. A

copy of the authorization form can be found on the department's website. The authorization application is required for all SBF applicants, even if the applicant is the approval authority.

C. Business entities will have an opportunity to review the filing and approve or reject further processing by the Department of State. To approve a filing, the partnership must provide the PIN assigned to the partnership within five days of receiving notification of a pending file. If the partnership rejects a filing or if five days passes with no action performed, the filing will not be processed by the Department of State.

D. The partnership is responsible for PIN usage and security. The Department of State will not be responsible for unauthorized usage of the PIN or changes made to the partnership's business record as a result of an unauthorized user entering the correct PIN. The department reserves the right to cancel the SBF service, change the PIN, remove an SBF enrollee, change the SBF service terms and conditions, or act to prevent or prosecute fraudulent activity at any time.

E. The service has a one-time enrollment fee of \$35. An enrollment does not expire; however, it can be cancelled by the enrollee, by another authorized applicant, or by the Department of State. Enrollments are non-transferrable. A new SBF enrollment application must be completed to reinstate a cancelled enrollment or to change the SBF enrollment to a different geauxBIZ user. Once the enrollment application is approved by the department, the department will provide the partnership with a personal identification number (PIN) that will be unique to the partnership. The partnership can give the PIN to any person filing amendments on the partnership's behalf.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:222 and R.S. 36:742.

HISTORICAL NOTE: Promulgated by the Department of State, Business Services Division, LR 42:

#### **Family Impact Statement**

The proposed Rule cited in LAC 19:V.Chapters 1-13 regarding secured business filings for geauxBIZ should not have any known or foreseeable impact on any family as defined by R.S. 49:927 or on family formation, stability and autonomy. Specifically, there should be no known or foreseeable effect on:

1. the stability of the family;
2. the authority and rights of parents regarding the education and supervision of their children;
3. the functioning of the family;
4. family earnings and family budget;
5. the behavior and personal responsibility of children; and
6. the ability of the family or a local government to perform the function as contained in the proposed amendments to the Rule.

#### **Poverty Impact Statement**

The proposed Rule cited in LAC 19:V.Chapters 1-13 regarding secured business filings for geauxBIZ should not have any known or foreseeable impact on poverty as defined by R.S. 49:973. Specifically, there should be no known or foreseeable effect on:

1. the household income, assets and financial security;
2. early childhood development and preschool through postsecondary education development;
3. employment and workforce development;



4. taxes and tax credits; and
5. child and dependent care, housing, health care, nutrition, transportation, and utilities assistance.

#### **Small Business Analysis**

The proposed Rule is not expected to have a significant adverse impact on small business as defined in the Regulatory Flexibility Act. The agency, consistent with health, safety, environmental and economic welfare factors has considered and, where possible, utilized regulatory methods in the drafting of the proposed Rule that will accomplish the objectives of applicable statutes while minimizing the adverse impact of the proposed Rule on small business.

#### **Provider Impact Statement**

The proposed Rule does not have any known or unforeseeable impact on providers as defined by HCR 170 of the 2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on:

1. the effect on the staffing level requirements or qualifications required to provide the same level of service;
2. the total direct and indirect effect on the cost to the providers to provide the same level of service; or
3. the overall effect on the ability of the provider to provide the same level of service.

#### **Public Comments**

Interested persons may submit written comments to Steve Hawkland, Deputy General Counsel, Legal Division, Department of State, P.O. Box 94125, Baton Rouge, LA 70804-9125. He will be responsible for responding to inquiries regarding the proposed amendments to various sections of the Rule. The deadline for the Department of State to receive written comments is 4:30 p.m. on Wednesday, April 27, 2016 after the public hearing.

#### **Public Hearing**

A public hearing on the proposed Rule is scheduled for Tuesday, April 26, 2016 at 1 p.m. in the Auditorium at the State Archives Building, 3851 Essen Lane, Baton Rouge, LA. At that time, all interested persons will be afforded the opportunity to submit data, views, or arguments either orally or in writing.

Tom Schedler  
Secretary of State

department will realize expenditures of approximately \$428,400 in FY 17 (\$35 \* 12,240 businesses), and \$67,200 (\$35 \* 1,920 businesses) in FY 18 associated with enrolling business entities. The Secretary of State projects that startup costs to add the SBF service to the geauxBIZ system would total \$428,400 and anticipates enough businesses will enroll to fund the addition of the service. In addition, the Secretary of State anticipates that approximately \$67,200 will fund maintenance on the system in FY 18 and in subsequent fiscal years. To the extent fewer businesses enroll than the Secretary of State projects, the department anticipates utilizing self-generated revenues from other sources to fully fund the SBF system.

#### **II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

The proposed rule will increase self-generated revenue collections by an indeterminable amount. To the extent businesses participate in the Secured Business Filings (SBF) program based upon the Secretary of State's projections, the department will realize a revenue increase of approximately \$428,400 in FY 17 and \$67,200 in FY 18. The exact revenue increase is indeterminable and dependent upon the number of businesses choosing to enroll in the SBF program. The Secretary of State anticipates funds generated from the \$35 enrollment fee will adequately fund expenditures associated with the SBF program.

#### **III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

The proposed rule creates an optional service designed to discourage fraudulent business filings in Louisiana. This service will notify enrolled business entity via email whenever amendments are submitted on the geauxBIZ system. Business entities will have an opportunity to review the filing and approve or reject further processing of documents by the Department of State, including potentially fraudulent and harmful business filings. Businesses entities statewide must pay a one-time registration fee of \$35 if they choose to participate in the Secured Business Filings service.

#### **IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

The proposed rule will not have an effect on competition and employment.

Joe R. Salter  
Undersecretary  
1603#052

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office

### **NOTICE OF INTENT**

#### **Department of Wildlife and Fisheries Wildlife and Fisheries Commission Office of Fisheries**

#### **Management Targets for Selected Finfish Species (LAC 76:VII.385)**

The Wildlife and Fisheries Commission does hereby give notice of intent to promulgate a Rule (LAC 76:VII.385) establishing management targets for black drum, sheepshead, and southern flounder. Proposed rules will establish biomass and fishing mortality rate targets based upon Act 205 (R.S. 56:325.4) of 2015 Regular Session of the Louisiana Legislature. Authority for promulgation of this Rule is included in the Administrative Procedure Act, R.S. 49:950 et seq., and through the authority granted in R.S. 56:6(25)(a), 56:320.2, 56:326.1, 56:326.3, and 56:325.4.

#### **FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Business Entities**

#### **I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

The proposed rule will increase expenditures for the Secretary of State's Business Division by an indeterminable amount in FY 17 and subsequent fiscal years. The expenditures are associated with software development and maintenance for the geauxBIZ system's Secured Business Filings (SBF) service. This is a new service that business entities can choose to enroll in at their discretion. The Secretary of State projects 15,300 businesses will enroll in FY 17. Projections further indicate an additional 1,920 businesses will enroll in FY 18.

All expenditures for the SBF program are dependent upon self-generated revenues collected via a \$35 enrollment fee and the number of business entities electing to participate in the program. To the extent businesses enroll in the SBF program according to the Secretary of State's projections, the

**Title 76  
WILDLIFE AND FISHERIES**

**Part VII. Fish and Other Aquatic Life**

**Chapter 3. Saltwater Sport and Commercial Fishery**

**§385. Management Targets for Selected Finfish Species**

A. Policy. The stocks of black drum, sheepshead, and southern flounder shall have management targets established within this rule. Management targets shall be established utilizing a historical time-series of fisheries data, defined for each stock, as a basis of reference. The reference time-series is developed utilizing a period of time within the most recent assessment where recruitment has not been impacted and sustainability has been demonstrated for each stock. The biomass and fishing mortality rate of each stock over this historical time-series shall be derived from the beginning of the assessed period through 2013. If data indicate that a stock is not meeting or is likely not to meet thresholds established in the assessment of the stock, the department shall provide, for the Louisiana Wildlife and Fisheries Commission's consideration, management options to ensure that a stock can remain within the management thresholds established for that particular stock.

**B. Management Targets**

1. Biomass targets shall be calculated as the average (geometric mean) spawning stock biomass (SSB) from each stock's historical time-series.

2. Fishing mortality rate targets shall be the fishing mortality rate that corresponds to each stock's SSB targets at equilibrium.

3. Biomass and fishing mortality rate targets shall be calculated based upon a historical time-series from the beginning of the assessed period through 2013, inclusive.

AUTHORITY NOTE: Promulgated in accordance with R.S.56:6(25)(a), R.S. 56:320.2(C), R.S. 56:326.1, R.S. 56:326.3, and R.S. 325.4.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, Office of Fisheries, LR 42:

**Family Impact Statement**

In accordance with Act 1183 of 1999 Regular Session of the Louisiana Legislature, the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission hereby issues its Family Impact Statement in connection with the preceding Notice of Intent. This Notice of Intent will have no impact on the six criteria set out at R.S. 49:972(B).

**Poverty Impact Statement**

The proposed rulemaking will have no impact on poverty as described in R.S.49:973.

**Provider Impact Statement**

This Rule has no known impact on providers as described in HCR 170 of 2014.

**Public Comments**

All interested persons may submit comments relative to the proposed Rule to Jason Adriance, Fisheries Division, Department of Wildlife and Fisheries, P.O. Box 98000, Baton Rouge, LA 70898-9000, or e-mail jadriance@wlf.la.gov prior to Thursday, May 5, 2016.

The secretary of the Department of Wildlife and Fisheries is authorized to take any and all necessary steps on behalf of the commission to promulgate and effectuate this notice of intent and the final rule, including but not limited to, the filing of the fiscal and economic impact statements, the filing of the notice of intent and final rule and the preparation of reports and correspondence to other agencies of government.

Bart R. Yakupzack  
Chairman

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: Management Targets for  
Selected Finfish Species**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

The proposed rule change will have no expenditure impact on state or local governmental units.

Pursuant to Act 205 of 2015, the proposed rule change establishes the criteria for management targets for black drum, sheepshead, and southern flounder basing them on fishing mortality rates corresponding to the spawning stock biomass. This is a change from the current management targets based on spawning potential ratios. LDWF currently collects and maintains data on both metrics. According to the LA Department of Wildlife and Fisheries (LDWF), the use of fishing mortality rates corresponding to spawning stock biomass rather than spawning potential ratios will provide more timely information relative to fisheries management.

The proposed rule change identifies the criteria for determining the conditions under which regulatory or management changes may be appropriate. Any management or regulatory options proposed by the Louisiana Department of Wildlife and Fisheries for these fish stocks will require approval by the Louisiana Wildlife and Fisheries Commission.

The proposed rule change states that if time-series data indicate that a stock is not meeting its management targets, LDWF shall propose management options for the consideration of the Louisiana Wildlife and Fisheries Commission.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

The proposed rule change is anticipated to have no effect on revenue collections of state or local governmental units.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

The proposed rule change will result in no change in costs or benefits to any persons or non-governmental groups.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

The proposed rule change is anticipated to have no effect on competition and employment.

Bryan McClinton  
Undersecretary  
1603#049

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office

# Potpourri

## POTPOURRI

### Department of Agriculture and Forestry Office of Agricultural and Environmental Sciences

Public Hearing—Substantive Changes to  
Proposed Rule—Pesticides (LAC 7:XXIII.1103)

The department published a Notice of Intent to update its pesticide regulations, specifically LAC 7:XXIII.103, 307, 309, 727, 1101 and 1103 in the December 20, 2015 edition of the *Louisiana Register* (LR 41:2693-2696). As a result of comments received after the public comment period ended, the department proposes to amend certain portions of the proposed changes to LAC 7:XXIII.1103.C. Specifically, the substantive changes made after the Notice of Intent was published on December 20, 2015 are as follows: DeSoto, Ward 7, LaSalle, St. Martin, Ward 5 and Winn, Ward 7 were all removed from the list of parishes in LAC 7:XXIII.1103.C. Additionally, Wards 1, 3 and 5 were added back into the restriction on Evangeline Parish. If the wards are not added back into the regulation, the entirety of Evangeline Parish would fall under the restriction. No fiscal or economic impact will result from the amendments proposed in this notice.

## Title 7 AGRICULTURE AND ANIMALS Part XXIII. Pesticides

### Chapter 11. Regulations Governing Application of Pesticides

#### §1103. Restrictions on Application of Certain Pesticides

A. - A.3. ...

B. The following pesticides may not be applied by commercial applicators during the times set forth in this Rule in the areas listed in §1103.C, D and E.

Chemical Name	Common Name
1. 4-amino-3, 5,6-trichloro-picolinic acid	Picloram
2. Arsenic trioxide	---
3. 3-chlorophenoxy-alpha-propionamide	3-CPA
4. 4-chlorophenoxy acetic acid	4-CPA
5. 2,4-dichlorophenoxy acetic acid (all salts, all formulations)	2,4-D
6. 4-(2,4-dichlorophenoxy) butyric	2,4-DB
7. 2-methoxy-3, 6-dichlorobenzoic acid (all salts, all formulations)	Dicamba
8. 2-methyl-4-chlorophenoxyacetic acid	2, 4-MCPA
9. 4-(2 methyl-4-chlorophenoxy) butyric acid	---
10. 2-(2 methyl-4-chlorophenoxy)	2-MCPP
11. Arsenic acid	Arsenic

C. The pesticides listed in §1103.B shall not be applied by commercial applicators between April 1 and September 15 in the following parishes, unless a waiver has been granted pursuant to §1107:

1. Avoyelles;
2. Bossier;
3. Caddo;

4. Caldwell;
5. Catahoula;
6. Concordia;
7. East Carroll;
8. Evangeline, Wards 1, 3 and 5;
9. Franklin;
10. Grant;
11. Madison;
12. Morehouse;
13. Natchitoches;
14. Ouachita;
15. Pointe Coupee;
16. Rapides;
17. Red River;
18. Richland;
19. St. Landry;
20. Tensas;
21. West Carroll.

D. The pesticides listed in §1103.B shall not be applied by commercial applicators between March 1 and June 15 in the area between the Mississippi River and Highway 61 in the parishes of St. James and St. John the Baptist.

E. The pesticides listed in §1103.B shall not be applied by commercial applicators in the parish of Plaquemines.

F. No commercial applicator may make application of the products listed in §1103.B and the following pesticides when the wind speed is at 10 miles per hour or above:

1. 3<sup>4</sup>-Dichloropropionanilide—Propanil;
2. 1:1-Dimethyl-4, 41-Bipyridinium (cation)—Paraquat;
3. Isopropylamine salt of glyphosate—Glyphosate and other salts of glyphosate;
4. Glufosinate-ammonium.

G. - N. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3203, R.S. 3:3242 and R.S. 3:3249.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Advisory Commission on Pesticides, LR 9:189 (April 1983), amended LR 10:196 (March 1984), LR 11:219 (March 1985), LR 11:942 (October 1985), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 18:953 (September 1992), LR 19:1119 (September 1993), LR 21:668 (July 1995), LR 24:281 (February 1998), LR 24:2076 (November 1998), LR 26:1428 (July 2000), LR 26:1966 (September 2000), LR 27:279 (March 2001), LR 27:1672 (October 2001), LR 33:1855 (September 2007), LR 35:628 (April 2009), LR 36:1980 (September 2010), LR 37:269 (January 2011), LR 37:809 (March 2011), amended by Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Advisory Commission on Pesticides, LR 37:3478 (December 2011), amended by the Department of Agriculture and Forestry, Advisory Commission on Pesticides, LR 38:1556 (July 2012), amended by the Department of Agriculture and Forestry, Office of Agriculture and Environmental Sciences, LR 42:

#### Public Comments

Interested persons may submit written comments to Kevin Wofford, Director of Pesticide Programs, Department of Agriculture and Forestry, 5825 Florida Blvd., Suite 3003, Baton Rouge, LA 70806. He is responsible for responding to

inquiries regarding these substantive amendments to the proposed Rule. The deadline for receipt of all written comments is 10 a.m. on Monday, April 25, 2016.

#### **Public Hearing**

In accordance with the provisions of the Administrative Procedure Act, specifically at R.S. 49:968(H)(2), the department gives notice of a public hearing to receive additional comments and testimony on these substantive amendments to the proposed Rule. The hearing will be held at 10 a.m. on Monday, April 25, 2016 in the Veterans' Auditorium at the Louisiana Department of Agriculture and Forestry, 5825 Florida Blvd., Suite 3003, Baton Rouge, LA 70806. At that time, all interested persons will be afforded an opportunity to submit data, views, or arguments, either orally or in writing.

Mike Strain, DVM  
Commissioner

1603#074

#### **POTPOURRI**

##### **Department of Children and Family Services Division of Programs**

##### **Social Services Block Grant Intended Use Report**

The Department of Children and Family Services (DCFS) announces opportunities for public review of the state's pre-expenditure report on intended uses of social services block grant (SSBG) funds for the state fiscal year (SFY) beginning July 1, 2016, and ending June 30, 2017. The proposed SFY 2016-2017 SSBG intended use report has been developed in compliance with the requirements of section 2004 of the Social Security Act (SSA), as amended and includes information on the types of activities to be supported and the categories or characteristics of individuals to be served through use of the state's allocation of SSBG funds. Section 2004 of the SSA further requires that the SSBG pre-expenditure report shall be "made public within the state in such manner as to facilitate comment by any person." The DCFS, as the designated state department, will continue to administer programs funded under the SSBG in accordance with applicable statutory requirements and federal regulations. The DCFS, Child Welfare Section (CWS) will be responsible for provision of social services, by direct delivery and vendor purchase, through use of SFY 2016-2017 SSBG expenditures for adoption, child protection, family services, and foster care/residential care services.

Louisiana, through DCFS/CWS, will utilize its allotted funds to provide comprehensive social services on behalf of children and families in fulfillment of legislative mandates for child protection and child welfare programs. These mandated services, and certain other essential social services, are provided without regard to income (WRI) to individuals in need. Individuals to be served also include low-income persons as defined in the intended use report who meet eligibility criteria for services provided through SSBG funding.

#### **Services designated for provision through SSBG funding for SFY 2016-2017 are:**

A. adoption (pre-placement to termination of parental rights);

B. child protective services including assessment, evaluation, social work intervention, shelter care, counseling and referrals for child abuse/neglect reports;

C. family services (social work intervention subsequent to validation of a report of child abuse/neglect, counseling to high risk groups);

D. foster care/residential care services (foster, residential care, and treatment on a 24-hour basis).

Definitions for the proposed services are set forth in the intended use report.

#### **Persons eligible for SSBG funded services include:**

A. persons WRI, who are in need of adoption services, child protection, family services, and foster care/residential services;

B. individuals WRI who are recipients of Title IV-E adoption assistance;

C. recipients of supplemental security income (SSI) and recipients of Temporary Assistance for Needy Families (TANF) and those persons whose needs were taken into account in determining the needs of TANF recipients;

D. low-income persons (income eligible) whose gross monthly income is not more than 125 percent of the poverty level. A family of four with gross monthly income of not more than \$2025 would qualify as income eligible for services;

E. persons receiving title XIX (Medicaid) benefits and certain Medicaid applicants identified in the proposed plan as eligible groups.

Post expenditure reports for the SSBG program for SFY 2014-2015 are included in the SSBG intended use report for SFY 2016-2017. Free copies are available by telephone request to (225) 342-341-7319 or by writing to the Administrator, Child Welfare Section, P.O. Box 3318, Baton Rouge, LA 70821.

The report is available for public review online at: <http://www.dss.state.la.us/index.cfm?md=pagebuilder&tmp=home&pid=131>, then select the 2014-2015 SSBG link. Inquiries and comments on the plan may be submitted in writing to the DCFS, Attention Administrator, P.O. Box 3318, Baton Rouge, LA 70821. The deadline for receipt of written comments is May 4, 2016 at 4 p.m.

All interested persons will have the opportunity to provide comments and/or recommendations on the plan, orally or in writing, at a public hearing scheduled for May 4, 2016 at 10 a.m. in Room 1-129 of the Iberville Building located at 627 North Fourth Street, Baton Rouge. Individuals with disabilities who require special services should contact the Bureau of Appeals at least seven working days in advance of the hearing. For assistance, call (225) 342-4120 (voice and TDD).

Marketa Gamer Walters  
Secretary

1603#022

## POTPOURRI

### Department of Children and Family Services Division of Programs

#### Louisiana's 2016 Annual Progress and Services Report

The Department of Children and Family Services (DCFS) announces opportunities for public review of the state's 2016 annual progress and services report (APSR). The APSR is a report on the achievement of goals and objectives and/or outcomes for year two of the 2015-2019 Child and Family Services Plan (CFSP). This plan addresses the use of title IV-B, subpart 1 and subpart 2, title IV-E Chafee Foster Care Independence Program (CFCIP), Educational and Training Vouchers (ETV), and Child Abuse Prevention and Treatment Act (CAPTA) funds and serves as the applications for additional funds from these federal sources.

Louisiana, through the DCFS, provides services that include child abuse prevention, child protective services, family services-prevention and intervention services, foster care, adoption and the youth transition services. The department will use its allotted funds provided under the Social Security Act, title IV-B, subpart 1, entitled the "Stephanie Tubbs Jones Child Welfare Services Program," to provide child welfare services to prevent child abuse and neglect, to prevent foster care placement, to reunite families, to arrange adoptions, and to ensure adequate foster care. Title IV-B, subpart 2, entitled "Promoting Safe and Stable Families," funds services to support families and prevent the need for foster care. The CFCIP funds services to assist foster children 15 years of age and older who are likely to remain in foster care until 18 years of age. Former foster care recipients who are 18 years of age who have aged out of foster care, and those who were adopted or entered guardianship at age 16 years of age or older, are also eligible for services. The services include basic living skills training and education and employment opportunities. The CAPTA funding is used to complement and support the overall mission of child welfare with emphasis on developing, strengthening, and carrying out child abuse and neglect prevention and treatment programs and to support citizen review panels statewide.

The DCFS is encouraging public participation in the planning of services and the writing of this document. The report can be found for review on the internet under <http://www.dss.state.la.us/index.cfm?md=pagebuilder&tmp=home&pid=132> then the 2015 APSR link. Inquiries and comments on the plan may be submitted in writing to the DCFS, Attention: Child Welfare Administrator, P.O. Box 3318, Baton Rouge, LA 70821. The deadline for receipt of written comments is May 4, 2016 at 4 p.m.

#### Public Hearing

All interested persons will have the opportunity to provide comments and/or recommendations on the plan, orally or in writing, at a public hearing scheduled for May 4, 2016 at 10:30 a.m. in Room 1-129 of the Iberville Building located at 627 North Fourth Street, Baton Rouge.

Individuals with disabilities who require special services should contact the Bureau of Appeals at least seven working

days in advance of the hearing. For assistance, call (225) 342-4120 (voice and TDD).

Marketa Garner Walters  
Secretary

1603#021

## POTPOURRI

### Department of Economic Development Office of Business Development

#### Public Hearing—Substantive Changes to Proposed Rule Quality Jobs Program (LAC 13:I.Chapter 11)

The Department of Economic Development intends to incorporate changes to the proposed amendments to the regulations regarding LAC 13:I.Chapter 11. The Notice of Intent for Title 13, Chapter 11, Quality Jobs Program, was published in the October 20, 2015 issue of the *Louisiana Register*. The department published a second Notice of Intent for §1107 in November 2015 to correct a technical error. The original publication in October 2015 inadvertently omitted current language from §1107.D. The omission was not considered in preparation of the fiscal note and LED intends to maintain the omitted language as part of this Section of Title 13. The final Rule will include this language from the November 2015 Notice of Intent.

A public hearing was held pursuant to R.S. 49:953(A)(2) on November 24, 2015, and interested persons were invited to provide comment. After a thorough review and careful consideration of the received comments, the department proposes to amend certain portions of the proposed rules:

- amend §1105.A.3.d, to strike the word "in" after the words "employer's fiscal year" and before the words "which the employer is" and insert "for" in its place;
- amend §1107.E, to strike the words "required information" after the words "filed until all" and before the words "all fees are received" and insert "information requested on the form" in its place;
- amend §1107.E, to insert the words "the required" after the word "and" and before the word "fees are received by LED.";
- amend §1111.B, to insert the words "in active negotiations with," after the words "because an applicant is" and before the words "under audit";
- amend §1111.B, to insert the word "by" after the words "under audit" and before the words "or in litigation with";
- amend §1111.B, to insert the words "Applicants may demonstrate active negotiation to LED by providing written documentation of ongoing, bilateral communications between the applicant or its representative and LWC or LDR as applicable or other written verification as approved by LED." after "application shall be cancelled.".

No fiscal or economic impact will result from the amendments proposed in this notice.

The changes are available for viewing on the Louisiana Department of Economic Development website at [www.opportunitylouisiana.com](http://www.opportunitylouisiana.com).

#### Public Hearing

LED will facilitate a public hearing for Chapter 11, Quality Jobs Program, on April 27, 2016 at 10 a.m. The meeting will take place at the Capitol Annex Building, 1051 North Third Street, Baton Rouge, LA 70802.

Anne G. Villa  
Undersecretary

1603#050

#### POTPOURRI

##### Department of Economic Development Office of Business Development

##### Public Hearing—Substantive Changes to Proposed Rule Enterprise Zone Program (LAC 13:I.Chapter 7)

The Department of Economic Development intends to incorporate changes to the proposed amendments to the regulations regarding LAC 13:I.Chapter 7. The Notice of Intent for Title 13, Chapter 7, Enterprise Zone Program, was published in the December 20, 2015 issue of the *Louisiana Register*.

A public hearing was held pursuant to R.S. 49:953(A)(2) on January 27, 2016, and interested persons were invited to provide comment. After a thorough review and careful consideration of the received comments, the department proposes to amend certain portions of the proposed rules:

- amend §701.E.1.b, to strike the entire Subparagraph;
- sever §703 from this rule promulgation so that no changes to this Section are made;
- amend §717.A, to strike the words “no later than 6 months after the end of each 12-month period” after “business incentive services” and before “on all active contracts” and replace it with “by May 31”;
- amend §721.D, to strike all proposed changes to this Subsection.

A change in the Fiscal and Economic Impact Statement will result from the amendments proposed in this notice. See below for fiscal changes.

The changes are available for viewing on the Louisiana Department of Economic Development website, at [www.opportunitylouisiana.com](http://www.opportunitylouisiana.com).

#### Public Hearing

LED will facilitate a public hearing for Chapter 7, Enterprise Zone Program, on April 27, 2016 at 9 a.m. The meeting will take place at the Capitol Annex Building, 1051 North Third Street, Baton Rouge, LA 70802.

Anne G. Villa  
Undersecretary

#### FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

##### RULE TITLE: Substantive Changes to Proposed Rule Enterprise Zone Program

##### I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There will be no incremental costs or savings to state or local governmental units due to the implementation of the proposed rules. The Department of Economic Development intends to administer the program with existing personnel.

##### II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Acts 126 and 361 of the 2015 legislative session amended the Enterprise Zone (EZ) Program. Act 126 permanently eliminates all projects with NAICS codes beginning with 44, 45, or 722 (retail and restaurants) from participation in the program unless an advance notification was filed prior to July 1, 2015. This legislative change results in a net revenue increase to the state general fund of \$0 for FY 16, \$1.3 million in FY 17 and \$3.8 million in FY 18 due to the anticipation of fewer program benefits paid. Act 361 provided for a new fee schedule for LED. Under the new fee schedule, the EZ Program will receive increased fees equaling \$350,000 in agency self-generated revenues for FY 16 – FY 18. The addition of both of these revenue increases results in a net revenue increase to the state of roughly \$350,000 for FY 16, \$1.65 million in FY 17 and \$4.15 million in FY 18.

In addition, the proposed rules change when the companies will file annual submissions. Currently, all companies file on an annual basis which makes all filing due at the same time. The proposed rules change to 12-month filings beginning with contract effective dates. This will spread out the due dates for annual filing throughout the year. While this may change the timing of jobs tax credit payments, it will not impact the actual cost of the program. The rules also modify the definition of a net new job for purposes of credit calculation to an average of jobs over a minimum of 7 consecutive months in the first year and last year and 12 months for the remaining years. Lastly, the proposed rule change limits the project phases to 30 months for the Enterprise Zone, Quality Jobs and Competitive Projects Payroll Incentive, if the project will last more than 30 months.

##### III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Companies who are no longer eligible to participate in the program will receive reduced state benefits due to the legislation. In addition, costs to applicants will increase by the amount of the increased application fees they will now owe at the time of reservation of credits. Adjustments to applicant administrative practices may occur to maximize the credit as timing of filings has been altered.

##### IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Companies receiving benefits under this program will gain competitively over companies that do not receive the program's benefits. While employment may increase in participating businesses, employment may be lessened in other competing businesses that do not participate in the program.

Anne G. Villa  
Undersecretary  
1603#051

Gregory V. Albrecht  
Chief Economist  
Legislative Fiscal Office

## POTPOURRI

### Department of Environmental Quality Office of Environmental Services Air Permits Division

Baton Rouge Nonattainment Area Redesignation  
Request and 2008 8-Hour Ozone National Ambient  
Air Quality Standard Maintenance Plan

Under the authority of the Louisiana Environmental Quality Act, R.S. 30:2001 et seq., the secretary gives notice that the Office of Environmental Services, Air Permits Division will submit a proposed redesignation request and ozone maintenance plan for the 2008 8-hour ozone national ambient air quality standard (NAAQS) for the Baton Rouge nonattainment area (BRNA), which includes the parishes of Ascension, East Baton Rouge, Iberville, Livingston and West Baton Rouge. The redesignation request is being submitted as required under section 107(d)(3)(E) of the 1990 Clean Air Act amendments (CAAA); the ozone maintenance plan is being submitted as required under section 175A of the 1990 CAAA. (1603Pot1)

All interested parties are invited to submit written comments concerning the redesignation request and maintenance plan for the Baton Rouge area no later than 4:30 p.m., April 29, 2016, to Vivian Aucoin, Office of Environmental Services, P.O. Box 4313, Baton Rouge, LA 70821-4313, or by email to [vivian.aucoin@la.gov](mailto:vivian.aucoin@la.gov). A public hearing will be held upon request. The deadline for requesting a public hearing is April 4, 2016.

A copy of the proposal may be viewed on the LDEQ website or at LDEQ headquarters at 602 North Fifth Street, Baton Rouge, LA 70802.

Herman Robinson, CPM  
General Counsel

1603#036

## POTPOURRI

### Department of Environmental Quality Office of the Secretary Legal Division

Public Notice—Notice of Clean  
Power Plan Listening Session

The Louisiana Department of Environmental Quality (LDEQ) hereby provides notice of a listening session to receive input on the development of Louisiana's state plan to limit carbon dioxide (CO<sub>2</sub>) emissions from existing electric generation units (EGUs). Louisiana's plan is required by the federal clean power plan, promulgated by the U.S. Environmental Protection Agency (EPA) on October 23, 2015, pursuant to its authority under section 111(d) of the Clean Air Act. The federal rule requires states to develop and implement plans which ensure that existing EGUs comply with CO<sub>2</sub> standards prescribed by EPA. Twenty-four facilities in Louisiana will be impacted by the rule. (1603Pot2)

The listening session will be held on Thursday, March 31, 2016, beginning at 10 a.m. and lasting until 3 p.m., in the Oliver Pollock and Pensacola Rooms of the Galvez Building (LDEQ headquarters), located at 602 North Fifth Street, Baton Rouge, LA 70802. A 45-minute lunch period will be provided beginning at or about 12 p.m.

If you or an organization that you represent would like to present material to LDEQ concerning the plan, please e-mail your proposed agenda topic and requested time allotment to Ms. Tegan Treadaway ([tegan.treadaway@la.gov](mailto:tegan.treadaway@la.gov)) no later than March 23, 2016. Note that the time allotted to each presenter will be based on the number of persons who request to speak, but each speaker will be provided with a reasonable opportunity to present his or her views. However, LDEQ moderators reserve the right to limit any subsequent discussion in order to ensure that all agenda items are covered. PowerPoint presentations can be accommodated, but are not required. You do not have to present material or propose an agenda topic in order to participate in the listening session.

The final agenda will be distributed via e-mail and published on LDEQ's clean power plan webpage (<http://www.deq.louisiana.gov/portal/DIVISIONS/AirPermitsEngineeringandPlanning/CleanPowerPlan.aspx>) prior to the listening session.

Disclaimer: On February 9, 2016, the U.S. Supreme Court stayed EPA's Clean Power Plan "pending disposition of the applicants' petitions for review in the United States Court of Appeals for the District of Columbia Circuit and disposition of the applicants' petition for a writ of certiorari, if such writ is sought." Interested persons should understand that the Clean Power Plan may be upheld, remanded to EPA for modification, or vacated in its entirety. Consequently, any input provided on the existing rule may no longer be relevant if the rule is revised pursuant to a court order.

### Clean Power Plan Common Questions

**Are there any topics related to the Clean Power Plan on which LDEQ is not taking comment?** No, information on any relevant topic may be submitted for consideration. However, interested persons should be aware that Act 726 of the 2014 Regular Session, enacting R.S. 30:2060.1, precludes the state plan from requiring that: 1.) an EGU switch to other fuels (e.g., from coal to natural gas) or co-fire other fuels; or 2) the utilization of an EGU be limited in order to achieve the prescribed CO<sub>2</sub> goal.

**When is Louisiana's plan due?** According to the final rule, state plans must be submitted to EPA by September 6, 2016, though a 2-year extension can be requested. However, in light of the aforementioned stay, the date by which state plans will be due will likely be re-established based on the timing and outcome of the ongoing litigation.

**How can I be notified of LDEQ's Clean Power Plan related actions?** A listserv ([http://louisiana.gov/Services/Email\\_Notifications\\_DEQ\\_CPP/](http://louisiana.gov/Services/Email_Notifications_DEQ_CPP/)) has been established to provide electronic notification when LDEQ schedules meetings, solicits comments, or disseminates information concerning the development of Louisiana's state plan.

LDEQ's clean power plan related records can be accessed via LDEQ's electronic document management system (EDMS) (<http://edms.deq.louisiana.gov/app/doc/querydef.aspx>) under agency interest (AI) no. 199837.

Questions or comments about the listening session may be directed to Ms. Tegan Treadaway at (225) 219-3408.

Herman Robinson, CPM  
General Counsel

1603#046

## POTPOURRI

### Office of the Governor Coastal Protection and Restoration Authority

Deepwater Horizon Oil Spill—Final Programmatic  
Damage Assessment and Restoration Plan and  
Programmatic Environmental Impact Statement

#### ACTION:

##### Supplementary Notice of Availability of Final Plan

NOTE: This notice is a supplement to the Notice of Availability of Final Plan issued by this agency in February 2016, found on page 357 of the Louisiana Register, Vol. 42, No. 02 (2/20/16), and incorporates all language found therein.

##### Next Steps

In accordance with NEPA, a federal agency must prepare a concise public record of decision (ROD) at the time the agency makes a decision in cases involving an EIS (40 CFR 1505.2). The trustees will issue a ROD pursuant to NEPA regulations at 40 CFR 1505.2 and OPA regulations at 15 CFR 990.23. Accordingly, the ROD for the final PDARP/PEIS will provide and explain the trustees' decisions regarding the selection of a preferred alternative. The trustees will issue the ROD no earlier than 30 days after the Environmental Protection Agency publishes a notice in the *Federal Register* announcing the availability of the final PDARP/PEIS (40 CFR 1506.10). The *Federal Register* notice of availability for the final PDARP/PEIS was issued by the National Oceanic and Atmospheric Administration on February 19, 2016.

Jason Lanclos  
Deputy Executive Director

1603#076

## POTPOURRI

### Department of Health and Hospitals Board of Pharmacy

Compounding for Office Use for Veterinarians  
(LAC 46:LIII.2535)

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950 et seq.) and the Pharmacy Practice Act (R.S. 37:1161 et seq.), the Board of Pharmacy published its Notice of Intent in the July 2015 edition of the *Louisiana Register*, specifying its proposal to amend §2535 of its rules to update the drug compounding standards to allow pharmacists to compound veterinary preparations for office use by veterinarians. As indicated in the notice, the board conducted a public hearing on August 26, 2015 to receive comments and testimony on the proposal.

During the board's consideration of those comments and testimony at its subsequent meeting on November 18, 2015, they took note of the comment which recognized the clear

federal authority for pharmacists to compound veterinary preparations pursuant to patient/client-specific prescriptions but noted the absence of clear federal authority for pharmacists to compound veterinary preparations for office use by veterinarians, in the absence of such prescriptions. The board commissioned its rules committee to draft a revision of the original proposal that would place pharmacists on notice as to the absence of clear federal authority to compound veterinary preparations for office use for veterinarians, and would advise such pharmacists that no state rule could provide immunity from any federal enforcement action. The committee proposed a fourth Paragraph in Subsection E of §2535 with the requested advisory language. The board reviewed that proposed revision during its February 24, 2016 meeting and directed the continuation of the promulgation process. The proposed revision is noted below.

The Legislative Fiscal Office has evaluated the impact of the proposed revision of the original proposal and has opined the suggested revision would not adversely increase any cost to the stakeholders.

#### Public Comments

Interested persons may submit written comments to Malcolm J. Broussard, Executive Director, Louisiana Board of Pharmacy, 3388 Brentwood Drive, Baton Rouge, LA 70809-1700. He is responsible for responding to inquiries regarding this proposed Rule as well as these proposed revisions to the original proposal.

#### Public Hearing

A public hearing on these proposed revisions to the original proposal is scheduled for Tuesday, April 19, 2016 at 9 a.m. in the board office. At that time, all interested persons will be afforded an opportunity to submit data, views, or arguments, either orally or in writing. The deadline for the receipt of all comments is 12 p.m. that same day.

#### Title 46

### PROFESSIONAL AND OCCUPATIONAL STANDARDS

#### Part LIII. Pharmacists

#### Chapter 25. Prescriptions, Drugs, and Devices

##### Subchapter C. Compounding of Drugs

##### §2535. General Standards

A. Compounding Practices. Compounded medications may be prepared using prescription medications, over-the-counter medications, chemicals, compounds, or other components.

1. ...

2. All compounding shall be accomplished utilizing accepted pharmacy techniques, practices, and equipment, as well as the Federal Food, Drug and Cosmetic Act of 1938 as subsequently amended, most recently in November 2013 (FDCA), the 2016 edition of Title 21 of the *Code of Federal Regulations* (CFR), and all relevant chapters of the 2014 edition of the *United States Pharmacopeia-National Formulary* (USP 37-NF 32).

A.2.a. - D. ...

E. Veterinarian-Administered Compounds, also referred to as Pharmacy-Generated Drugs

1. Upon receipt of a valid non-patient-specific medical order from a licensed veterinarian, the pharmacy may compound a preparation intended for administration to an animal patient by the veterinarian.



2. These preparations may not be distributed to any other third party by the pharmacy, nor may these preparations be further re-sold or distributed by the veterinarian ordering the preparation from the pharmacy.

3. This authorization is primarily intended to facilitate the preparation of medications needed for emergency use in a veterinary office practice. Given the limited application of this authorization, which allows these products to be prepared using less rigorous standards applicable to compounding as opposed to the more rigorous standards applicable to manufacturing processes, the compounding pharmacy preparing these products shall be limited in the amount of such products they can prepare.

a. No Louisiana-licensed pharmacy may distribute any amount of practitioner-administered compounds in excess of 5 percent of the total amount of drug products dispensed and/or distributed from their pharmacy.

b. The 5 percent limitation shall be calculated on a monthly basis and shall reference the number of dosage units.

c. For those Louisiana-licensed pharmacies located outside Louisiana, the total amount distributed and/or dispensed shall reference the pharmacy's total business within the state of Louisiana.

4. The provisions of this Subsection E notwithstanding, pharmacists intending to engage in the compounding of veterinary preparations pursuant to non-patient-specific medical orders from veterinarians should be aware that federal law or rule may not permit such activity by a licensed pharmacy, and further, such pharmacists should be aware that the board's rules cannot legitimize an activity that is not permitted under federal law or rule, and further, such pharmacists should be aware that while this activity is permitted by the board, pharmacists engaging in this activity remain subject to the full force and effect of federal law enforcement.

F. Compounding Commercial Products not Available. A pharmacy may prepare a copy of a commercial product when that product is not available as evidenced by either of the following:

1. products appearing on a website maintained by the American Society of Health-System Pharmacists (ASHP);

2. products temporarily unavailable from manufacturers, as documented by invoice or other communication from the distributor or manufacturer.

G. Labeling of Compounded Preparations

1. For patient-specific compounded preparations, the labeling requirements of R.S. 37:1225, or its successor, as well as §2527 of this Chapter, or its successor shall apply.

2. For veterinarian administered compounds, the label shall contain, at a minimum, the following data elements:

- a. pharmacy's name, address, and telephone number;
- b. veterinarian's name;
- c. name of preparation;
- d. strength and concentration;
- e. lot number;
- f. beyond use date;
- g. special storage requirements, if applicable;
- h. identification number assigned by the pharmacy;

and

i. name or initials of pharmacist responsible for final check of the preparation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), effective January 1, 1989, amended LR 23:1316 (October 1997), LR 29:2105 (October 2003), effective January 1, 2004, LR 41:97 (January 2015), LR 42:

Malcolm J. Broussard  
Executive Director

1603#077

## POTPOURRI

### Department of Health and Hospitals Bureau of Health Services Financing

#### Substantive Changes and Public Hearing Notification Direct Service Worker Registry (LAC 48:I.Chapter 92)

In accordance with the provisions of the Administrative Procedures Act, R.S. 49:950 et seq., the Department of Health and Hospitals, Bureau of Health Services Financing published a Notice of Intent in the December 20, 2015 edition of the *Louisiana Register* (LR 41:2721-2724) to amend LAC 48:I.Chapter 92. This Notice of Intent proposed to amend the provisions governing the DSW registry in order to align the DSW registry rule with R.S. 40:2179-40:2179.1, and to provide information on how to access the DSW Registry online database for verification purposes.

The department conducted a public hearing on this Notice of Intent on January 28, 2016 to solicit comments and testimony on the proposed Rule. Upon further discussion with stakeholders, the department subsequently determined that further revisions to Chapter 92 were necessary, which resulted in non-technical, substantive changes to the December 20, 2015 Notice of Intent.

Taken together, all of these proposed revisions will closely align the proposed Rule with the department's original intent and the concerns brought forth in discussions with stakeholders after publication of the Notice of Intent. No fiscal or economic impact will result from the amendments proposed in this notice.

## Title 48

### PUBLIC HEALTH—GENERAL

#### Part I. General Administration

##### Subpart 3. Health Standards

#### Chapter 92. Direct Service Worker Registry

##### Subchapter A. General Provisions

#### §9201. Definitions

\* \* \*

*Activities of Daily Living (ADLs)*—the functions or tasks which are performed by an individual in a typical day, either independently or with supervision/assistance. Activities of daily living may include, but are not limited to, bathing, dressing, eating, grooming, walking, transferring and/or toileting).

*Assistance with Activities of Daily Living*—services that provide assistance with activities of daily living. Such assistance may be the actual performance of the task for the individual, or may provide hands-on assistance with the performance of the tasks, or may include supervision and prompting to allow the individual to self-perform such tasks.

\*\*\*

*Direct Service Worker (DSW)*—an unlicensed person who provides personal care or other services and support to persons with disabilities or to the elderly to enhance their well-being, and who is involved in face-to-face direct contact with the person. Functions performed may include, but are not limited to, assistance and training in activities of daily living, personal care services, and job-related supports. Examples of direct service workers employed or contracted in a licensed and/or certified health care setting include, but are not limited to:

1. - 13. ...

NOTE: Those persons who are listed on the Certified Nurse Aide Registry and who are employed as certified nurse aides in a licensed and/or certified nursing facility and/or a skilled nursing facility within a hospital are not included under these provisions as a direct service worker.

\*\*\*

*Elderly*—any adult over 75 years old or individuals over 65 years old who have functional impairments.

*Employed*—performance of a job or task for compensation, such as wages or a salary. An employed person may be one who is contracted or one who is directly hired for an on staff position.

\*\*\*

*Health Care Provider*—any health care facility, agency, or entity licensed and/or certified by DHH. Such entities may be referred to in other laws, statutes and regulations as providers, agencies, clinics, residential care units, homes or facilities. Health care providers include, but are not limited to, the following:

1. - 10. ...

*Health Standards Section (HSS)*—the section of the Department of Health and Hospitals responsible for the licensing and/or certification of health care providers.

\*\*\*

*Provider*—

1. an entity that furnishes care and services to consumers and has been licensed and/or certified by the department to operate in the state;

2. in the case of an authorized departmental self-directed program, provider shall be the entity or individual as specified by the program employing or contracting the direct service worker.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2179-2179.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:2058 (November 2006), amended LR 33:95 (January 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:3175 (December 2012), LR 42:

## **§9202. Introduction**

A. - B.6. ...

C. Licensed and/or certified health care providers shall access the registry to determine if there is a finding that a prospective hire or currently employed or contracted direct service worker has been determined to have committed

abuse or neglect of an individual being supported, or misappropriated the individual's property or funds. If there is such a finding on the registry, the prospective employee shall not be hired nor shall a current employee have continued employment with the licensed and/or certified health care provider.

D. All provisions of this Chapter, except Subchapter D, §9241-§9261, Medication Administration and Noncomplex Tasks in Home and Community-Based Settings, applies to any licensed and/or certified health care provider who employs or contracts direct service workers who provide personal care or other services and support to persons with disabilities or to the elderly to enhance their well-being, and who is involved in face-to-face direct contact with the person.

1. Exception. Home and community-based services providers are required to meet all provisions of this Chapter, inclusive of Subchapter D, §9241-§9261, if the HCBS provider employs or contracts direct service workers who perform medication administration and noncomplex medical tasks in the HCBS setting.

E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2179-2179.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:2059 (November 2006), amended LR 33:95 (January 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:3176 (December 2012), LR 42:

## **Subchapter C. Provider Participation**

### **§9231. Health Care Provider Responsibilities**

A. Prior to hiring any direct service worker or trainee, the licensed and/or certified health care provider shall:

1. - 2. ...

B. The health care provider shall have a written process to check the registry every six months to determine if any currently employed or contracted direct service worker or trainee has been placed on the registry with a finding that he/she has been determined to have committed abuse or neglect of an individual being supported or misappropriated the individual's property or funds.

1. ...

2. If there is such a finding on the registry, the employee shall not have continued employment with the licensed and/or certified health care provider in accordance with the provisions of §9202.C.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2179-2179.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:2061 (November 2006), amended LR 33:97 (January 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:3176 (December 2012), LR 42:

## **Subchapter D. Medication Administration and Noncomplex Tasks in Home and Community-Based Settings**

### **§9243. General Requirements for the Performance of Medication Administration and Noncomplex Tasks in Home and Community-Based Settings**

A. ...

1. be employed or contracted by an agency licensed and/or certified by the Health Standards Section or employed

as part of an authorized departmental self-directed program; and

A.2. - B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1031-1034.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:3177 (December 2012), amended LR 42:

**§9245. Training Requirements for the Performance of Medication Administration and Noncomplex Tasks in Home and Community-Based Settings**

A. - C. ...

D. Any direct service worker currently employed or contracted to perform the procedures authorized by this Chapter shall complete the training required by this Subchapter no later than 12 months after promulgation of this Rule.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1031-1034.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:3177 (December 2012), amended LR 42:

**§9253. Registered Nurse Responsibilities**

A. - A.6. ...

7. completing and submitting the required documentation to the licensed and/or certified agency employing or contracting the direct service worker.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1031-1034.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:3178 (December 2012), amended LR 42:

**§9257. Liability**

A. ...

B. Any physician licensed to practice medicine by the Louisiana State Board of Medical Examiners, whether or not the physician developed the person's plan of care, including but not limited to the prescribed medical regime, who is rendering professional medical care services shall not be liable for any civil damages as a result of any negligent or intentional act or omission of the direct service worker or licensed and/or certified agency.

C. Notwithstanding any other provision of law, licensed and/or certified agencies that employ or contract direct service workers shall be liable for acts or omissions of the direct service worker.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1031-1034.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:3179 (December 2012), amended LR 42:

**Public Comments**

Interested persons may submit written comments to Cecile Castello, Health Standards Section, P.O. Box 3767, Baton Rouge, LA 70821 or by email to MedicaidPolicy@la.gov. Ms. Castello is responsible for responding to inquiries regarding these substantive amendments to the proposed Rule. The deadline for receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

**Public Hearing**

A public hearing on these substantive changes to the proposed Rule is scheduled for Thursday, April 28, 2016 at 9:30 a.m. in Room 118, Bienville Building, 628 North

Fourth Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing.

Rebekah E. Gee MD, MPH  
Secretary

1603#072

**POTPOURRI**

**Department of Health and Hospitals  
Bureau of Health Services Financing  
and  
Office of Aging and Adult Services**

Substantive Changes and Public Hearing Notification  
Personal Care Services—Long-Term  
(LAC 50:XV.Chapter 129)

In accordance with the provisions of the Administrative Procedures Act, R.S. 49:950 et seq., the Department of Health and Hospitals, Bureau of Health Services Financing published a Notice of Intent in the January 20, 2016 edition of the *Louisiana Register* (LR 42:131-134) to amend LAC 50:XV.Chapter 129. This Notice of Intent proposed to amend the provisions governing long-term personal care services (LT-PCS) in order to 1) terminate the Louisiana Personal Options Program (La POP); 2) revise the eligibility requirements for shared LT-PCS; and 3) clarify the provisions governing the activities of daily living.

Act 299 of the 2011 Louisiana Legislative Session directed the department to implement certain policy and licensing provisions to home and community-based services (HCBS) providers and mandate cost reporting for these providers. The department has determined that further revisions to LAC 50:XV.12917 are necessary to ensure compliance with these requirements.

Taken together, all of these proposed revisions will closely align the proposed Rule with the department's original intent and with the requirements of Act 299. No fiscal or economic impact will result from the amendments proposed in this notice.

**Title 50**

**PUBLIC HEALTH—MEDICAL ASSISTANCE**

**Part XV. Services for Special Populations**

**Subpart 9. Personal Care Services**

**Chapter 129. Long Term Care**

**§12917. Unit of Reimbursement**

A. Reimbursement for personal care services shall be a prospective flat rate for each approved unit of service that is provided to the recipient. One quarter hour (15 minutes) is the standard unit of service for personal care services. Reimbursement shall not be paid for the provision of less than one quarter hour (15 minutes) of service. Additional reimbursement shall not be available for transportation furnished during the course of providing personal care services.

B. The minimum hourly rate paid to personal care workers shall be at least the current federal minimum.

B.1. - I. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:913 (June 2003), amended by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 34:253 (February 2008), LR 34:2581 (December 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 35:1901 (September 2009), LR 36:1251 (June 2010), LR 37:3267 (November 2011), LR 39:1780 (July 2013), LR 42:

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), if it is determined that submission to CMS for review and approval is required.

Public Comments

Interested persons may submit written comments to Jen Steele, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030 or by email to MedicaidPolicy@la.gov. Ms. Steele is responsible for responding to inquiries regarding these substantive amendments to the proposed Rule.

Public Hearing

A public hearing on these substantive changes to the proposed Rule is scheduled for Thursday, April 28, 2016 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Rebekah E. Gee MD, MPH  
Secretary

1603#073

POTPOURRI

Department of Insurance  
Office of the Commissioner

Public Hearing—Substantive Changes to Proposed Rule  
Regulation 32—Group Coordination of Benefits  
(LAC 37:XIII.Chapter 3)

The Department of Insurance published a Notice of Intent to amend its rules in the September 20, 2015, Volume 41 No. 09 edition of the *Louisiana Register* (LR 41:1862-1871). The notice solicited views, arguments, information, and written comments. As a result of its consideration of the written comments received, the Department of Insurance proposes to amend §303 of the proposed Rule and to expand the application of the Rule to the individual market so that, as amended, these provisions will read as set forth below.

Title 37  
INSURANCE

Part XIII. Regulations

Chapter 3. Regulation 32—Group Coordination of Benefits

§303. Definitions

A. ...

\*\*\*

Claim Determination Period or Plan Year—a period of not less than 12 consecutive months over which allowable

expenses shall be compared with total benefits payable in the absence of COB to determine whether overinsurance exists and how much each plan will pay or provide.

a. The claim determination period is usually a calendar year, but a plan may use some other period of time that fits the coverage of the group or individual contract. A person is covered by a plan during a portion of a claim determination period if that's person coverage starts or ends during the claim determination period.

b. ...

\*\*\*

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 17:67 (January 1991), amended LR 20:52 (January 1994), LR 23:415 (April 1997), LR 42:

Public Hearing

In accordance with R.S. 49:968(H)(2), a public hearing on proposed substantive changes will be held by the Department of Insurance on April 20, 2016, at 10 a.m. at the offices of the Louisiana Department of Insurance, Poydras Building 1702 North Third Street, Baton Rouge, LA 70804.

James J. Donelon  
Commissioner

1603#040

POTPOURRI

Department of Natural Resources  
Office of Conservation

Orphaned Oilfield Sites

Office of Conservation records indicate that the oilfield sites listed in the table below have met the requirements as set forth by section 91 of Act 404, R.S. 30:80 et seq., and as such are being declared orphaned oilfield sites.

Operator	Field	District	Well Name	Well Number	Serial Number
Samedan Oil Corp. et al	Fresh Water Bayou, North	L	Humble Fee	001	138279
Natchez Chief, Inc.	Tullos Urania	M	Cannon	001	175299
Oilwell Acquisition Co.	Rosedale	L	D D Angelloz Swd	001	111322
Mrs. W. B. Haile, Jr.	Monroe	M	W. B. Haile, Jr.	001	141549
James A. Noe et al	Monroe	M	Mrs A C Dykes	002	84306
W. W. F. Oil Corporation	Merryville	L	W K Crawford et al Agents	001	74059

Richard P. Ieyoub  
Commissioner

1603#034



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